

SUPPLEMENTARY ASSESSMENT REPORT

**DEVELOPMENT APPLICATION (FURTHER REVISED)
(2016STH035 – DA10.2016.304.1)**

**PROPOSED MIXED USE DEVELOPMENT
RETAIL AND COMMERCIAL PREMISES
AND SHOP-TOP HOUSING**

Various Allotments
Terralong, Akuna and Shoalhaven Streets
Kiama

Prepared for
Kiama Municipal Council

October 2018

Supplementary Assessment Report

Project	Development Application (Further Revised) (2016STH035 DA – DA10.2016.304.1)
Address	Various Allotments, Terralong, Akuna and Shoalhaven Streets, Kiama
Our ref:	16/108
Prepared by	Stephen Richardson
Final	17 October 2018

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1.0 SUMMARY

JRPP Number.	2016STH035 DA
DA Number	DA 2016.304.1
Local Government Area	Kiama Municipal Council
Proposed Development	Further Revised Plans for mixed use development comprising retail and commercial premises (including supermarket); ninety-six (96) residential units; and multi-level basement car park containing a total of 346 spaces.
Street Address	Various Allotments, Terralong, Akuna and Shoalhaven Streets, Kiama
Applicant / Owner	Applicant: ADM Architects Owner: Kiama Municipal Council
Number of Submissions	Public exhibition of further revised development application (19 th September 2018 to 3 rd October 2018). A total of eighteen (18) submissions have been made all objecting or raising concerns with respect to the further revised proposal.
Regional Development Criteria (Schedule 4A of the Act)	The proposal has a capital investment value > \$20 million. Council related development with a value > \$5 million. (Kiama Municipal Council is the owner of the land on which the development is proposed to be carried out.)
List of All Relevant s79C(1)(a) Matters	<ul style="list-style-type: none"> • List of all relevant environmental planning instruments <ul style="list-style-type: none"> ➤ State Environmental Planning Policy No. 55 – Remediation of Land; ➤ State Environmental Planning Policy No. 64 – Advertising Signage; ➤ State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development; ➤ State Environmental Planning Policy (State & Regional Development) 2011; ➤ State Environmental Planning Policy (Building & Sustainability Index – BASIX) 2004; ➤ State Environmental Planning Policy (Infrastructure) 2007; ➤ State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017; ➤ State Environmental Planning Policy (Coastal Management 2018) ➤ Kiama Local Environmental Plan 2011.

	<ul style="list-style-type: none"> • List any proposed instrument that is or has been the subject of public consultation under the Act and that has been notified to the consent authority: <ul style="list-style-type: none"> ➤ There are no proposed environmental planning instruments that have been notified and which are relevant to the revised proposal. • List any relevant Development Control Plan: <ul style="list-style-type: none"> ➤ Kiama Development Control Plan 2012. • List any relevant planning agreement that has been entered into under section 93F, or any draft planning agreement that a developer has offered to enter into under section 93F: <ul style="list-style-type: none"> ➤ Nil. • List any coastal zone management plan: <ul style="list-style-type: none"> ➤ Nil. • List any relevant regulations: <ul style="list-style-type: none"> ➤ Environmental Planning & Assessment Regulations 2000
List of all documents submitted with this report for the panel's consideration.	<ul style="list-style-type: none"> • Assessment Report prepared by Cowman Stoddart dated 13 April 2018 • Architectural Drawing Set prepared by ADM Architects • BASIX & NatHERS Certification prepared by Greenview Consulting. • Landscape Plans prepared by Ochre Landscape Architects • Urban Design Assessment prepared by BHI Architects • Engineering Assessment including Consolidated Traffic Assessment prepared by Kiama Municipal Council. • Recommended Conditions of Consent
Recommendation	Approval subject to conditions
Report by	Stephen Richardson Director and Town Planning Consultant Cowman Stoddart Pty Ltd M. Appl.SC., B.T.P (1 st Class Hons), Grad. Dip. Env. Mgt. RPIA
Report date	17 October 2018

2.0 DEVELOPMENT SITE AND SURROUNDS

2.1 THE DEVELOPMENT SITE

The Development Site comprises multiple parcels of land situated within the Kiama CBD and generally bound by Akuna Street to the south, Shoalhaven Street to the east and Terralong Street to the north. **Table 1** below details the parcels of land that comprise the Development Site.

Table 1
The Development Site

<i>Lot and DP</i>	<i>Address</i>	<i>Existing Use</i>	<i>Area (m²)</i>
Lot 1 DP 50193	100 Terralong Street	2 storey retail and commercial building (currently occupied by "The Collective")	2739.6
Lot 1 DP 506764	Akuna Street	Shed/storage structures and hard stand parking area (formerly occupied by Mitre 10)	
Lot 3 DP 1104857	3 Akuna Street	Brick Cottage	
Lot 200 DP 1017091	55 Shoalhaven Street	1 – 3 commercial building; 2 single storey cottages (one fronting street), fibro and brick garages.	4961.0
Lot 100 DP 1211384	61 Shoalhaven Street	Public Car Park	
Lane "Road 6.095 W"	Off Akuna Street	Laneway	304 (182.5 m ² used)
Total Area			7883.1

Figure 1 below depicts an aerial photograph of the Development Site.

The Development Site is an irregular shaped parcel of land with an overall area of 7700.6 m² (excluding the unnamed laneway). A portion (182.5 m²) of the subterranean land of the Council-owned public unnamed laneway (comprising an area of 304 m²) will be utilised by the development for public amenities within the retail arcade and a linkage to the commercial parking level.

That part of the Development Site located to the west of the laneway has a narrow frontage of 12.57 metres to Terralong Street (northern boundary); and widens beyond this property to a northern width of 64.19 m (adjoining the rear of the shops fronting Terralong Street); with a frontage of 55.875 metres to Akuna Street (southern boundary); and 39 metres to the lane (eastern boundary). This part of the Development Site has a depth of approximately 49 metres (north to south).

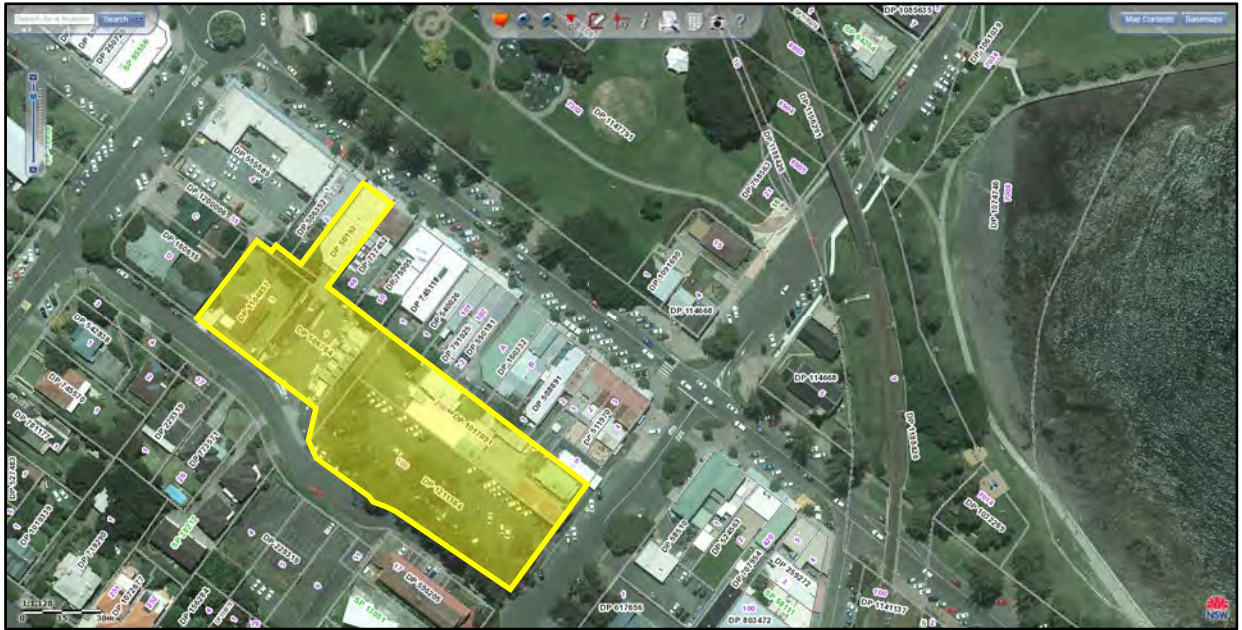


Figure 1: Aerial photograph of Development Site and Locality
(Source: <http://maps.six.nsw.gov.au/>)

That part of the Development Site located to the east of the laneway has a northern boundary of 94.5 metres (adjoining the rear of the shops fronting Terralong Street); frontage to Shoalhaven Street (eastern boundary) of 49.915 metres; 51.535 metres to the laneway (western boundary); and frontage to Akuna Street (southern boundary) of approximately 93 metres (variable). This part of the Development Site has a depth of approximately 38 metres (north to south, excluding the narrow allotment of 100 Terralong Street).

The Development Site slopes to varying degrees generally from the southern (Akuna Street) frontage down to the north and north-east; the western part of the Development Site (excluding the 100 Terralong Street property) by about five metres (approximately RL 25 m to RL 20 m), and the eastern part has a crossfall of about 8 metres (from RL 25 m at the south-western corner to RL 17 m at the north-eastern (Shoalhaven Street) corner). There are existing retaining walls that occur through the site and most notably partly along the northern boundary of the site.

2.2 THE SURROUNDS

The site is located within the town centre of Kiama and is situated in an area containing a mixture of commercial, residential and open space uses as described below:

North of the site:

100 Terralong Street is the northern part of the site and it is within the traditional retail shopping street of Kiama located on the southern side of Terralong Street. Buildings generally along Terralong Street are one or two storey height and the rear property boundaries adjoin the main part of the subject site. To the north, on the opposite side of Terralong Street is Hindmarsh Park.

South of the site:

Akuna Street forms the southern boundary of the subject site and on the opposite side of the road is a commercial development (corner Shoalhaven Street), a public car park, a residential flat building (No. 10) and detached dwelling-houses with generous setbacks to Akuna Street (Nos 4 - 10). Residential properties are located further to the south, upslope from Akuna Street.

West of the site:

Adjoining the site to the west are single storey commercial premises fronting Collins Street. Commercial premises (RMB Lawyers) at No. 66, having a rear car park adjoining the subject site; and a preschool is located at No. 64 with the play area/yard sited to the rear near the subject site. Further along Collins Street is a dental practice (No. 68) and residential properties. A residential flat building complex and Kiama Public School are located on the western side of Collins Street.

East of the site:

One and two storey commercial premises are located along the eastern side of Shoalhaven Street opposite the site, including the NSW Government Services office, a Veterinary Hospital, and the heritage-listed Kiama Inn Hotel and associated bottle shop.

3.0 BACKGROUND

Our firm submitted an Assessment Report dated 13th April 2018 on behalf of Kiama Municipal Council for a previous revised proposal for this site which consisted of a mixed-use development consisting of nine (9) retail premises including a supermarket; five (5) commercial tenancies; and one hundred (100) residential units (shop-top housing) on the subject land. The proposal would have involved a maximum of four storeys (above ground level) with up to three basement levels and will provide a total of 350 car parking spaces. This Assessment Report recommended that the Joint Region Planning Panel (“JRPP”) approve this previous proposal.

On the 30th April 2018 the JRPP considered this earlier Assessment Report and resolved to defer determination, of the development application, requiring the following information to be provided and assessed:

1. *Amended plans are to be submitted which:*
 - *Delete level 4 from building D and E and replace with communal open space to achieve height compliance on this building and closer compliance to the overall communal open space requirements.*
 - *Provide a differentiated building articulation and materiality to building D and E.*
 - *Review pedestrian access between Terralong Street and Akuna Street to provide more legible and direct access.*
 - *Review pedestrian access for Shoalhaven Street shops basement car parking spaces.*
 - *Provide details of houses of operation, availability of access for car parking.*
 - *Identify locations for canopy planting in communal open space areas and update the landscape plan to reflect any changes.*
2. *The amended plans be reviewed by Council’s external architect and urban design consultants in respect of appropriateness of:*
 - *Architectural language*
 - *SEPP 65*
 - *Urban design outcomes*
3. *A supplementary report is to be prepared which:*
 - *Addresses the matters in points 1 and 2*
 - *Includes a consolidated traffic assessment that responds to concerns raised by the community; and*
 - *Includes any relevant changes to conditions.*

4. *The Panel also noted general concern expressed in written and verbal submissions about traffic and parking access and recommended that Council undertakes a strategic consideration of traffic management and parking access across the CBD in the future.*

Following the JRPP's deferral of consideration of the Development Application, the Applicant has further revised the proposal and submitted amended plans and documentation for consideration.

This supplementary assessment report discusses the further revised proposal and provides an assessment of the further revised proposal in accordance with point 3 of the JRPP's Record of Deferral as detailed above.

This supplementary assessment report should be read in conjunction with the previous Assessment Report dated 13th April 2018 that our firm prepared in relation to the previous revised proposal. A copy of the previous Assessment Report in connection with the previous Assessment Report forms **Annexure 1** to this supplementary assessment report.

With respect to Point 4 raised by the JRPP's Record of Deferral in which the JRPP recommend that that Council undertakes a strategic consideration of traffic management and parking access across the CBD in the future; Council advise that it will consider this requirement as it moves forward with its strategic planning program over the next 12 months. This matter however is not further addressed in this supplementary assessment report.

4.0 DESCRIPTION OF THE FURTHER REVISED DEVELOPMENT PROPOSAL (“THE FURTHER REVISED PROPOSAL”)

4.1 THE FURTHER REVISED PROPOSAL

The further revised proposal seeks approval for the demolition and removal of all existing structures on the site and the construction of a mixed-use development consisting commercial components comprising; a supermarket, five (5) retail shops and three (3) retail “kiosks” in a retail arcade; two (2) upper level commercial premises fronting Terralong Street; and three (3) shops fronting Shoalhaven and Akuna Streets. The Applicant has previously supplied documentation confirming the ‘Aldi’ supermarket chain as the likely tenant of the supermarket.

The revised proposal also includes “shop top housing” comprising a total of ninety-six (96) residential units.

The proposal will involve a maximum of four storeys (above ground level) with up to five basement levels and will provide a total of 346 car parking spaces.

The retail and commercial component of the project will be formed over three separate levels. As with previous proposals for this site the ground floor retail level will include the demolition of the existing “Collective” store fronting Terralong Street and construction of a new three storey retail and commercial development, comprising ground floor retail and two floors of commercial tenancies above the ground floor retail level to the street frontage. Pedestrian access will also be provided adjacent to the Terralong Street retail tenancy to a retail arcade comprising nine (9) retail tenancies. This arcade will be anchored by a supermarket. (The application also includes advertising signage for the supermarket.) Three additional and separate shops will front the Akuna and Shoalhaven Street frontages of the site.

Off-street car parking will be contained over five separate levels, including: a lower basement level (2) containing 79 commercial spaces; a basement level (1) providing 76 commercial parking spaces; a parking area on the same level as the retail arcade level containing 57 commercial parking spaces; a residential parking level containing 108 residential parking spaces and a mezzanine parking level above the main residential parking level containing a further 26 parking spaces. The revised proposal will provide a total of 346 off-street car parking spaces. Vehicle ingress and egress to the parking levels will be from both Shoalhaven and Akuna Streets, with the latter access from the existing laneway off Akuna Street.

The further revised proposal still includes a separate one-way service vehicle delivery ingress driveway from Shoalhaven Street to the east of the site with egress to Collins Street to the west. This driveway will provide access for delivery and loading vehicles to two separate loading dock areas, with one loading dock specifically set aside for the supermarket, and the other to service the remaining commercial tenancies. This access driveway will also provide access for garbage contractor vehicles to service the separate residential and commercial waste areas located within this level.

The ninety-six (96) residential apartments will be contained within four separate towers or buildings (Buildings A – E, with D & E comprising the one building, as shown on the architectural drawing set) that will sit above the retail and parking levels. These towers or buildings will include the following:

Table 2
Dwelling Size Mix

<i>Building</i>	<i>1 bed</i>	<i>2 bed</i>	<i>3 bed</i>	<i>Total</i>
A	7	12		19
B	10	14	-	24
C	10	14		24
D and E	11	18		29
Total	38	58	0	96

The further revised proposal is configured as follows:

Table 3
The Further Revised Proposal

<i>Level (as referred to on the Architectural Drawing Set)</i>	<i>Proposed Use(s)</i>
Basement Level 2	<ul style="list-style-type: none"> Commercial parking for 79 car parking spaces
Basement Level 1	<ul style="list-style-type: none"> Commercial parking for 76 parking spaces
Ground Retail and Parking Level	<ul style="list-style-type: none"> 9 retail tenancies and supermarket within retail arcade. Total floor area – 2438 m² (excluding arcade floor space and “back of house” areas). Amenities and part arcade constructed under laneway. Commercial parking area for 57 parking spaces (including 4 disabled parking spaces) and 9 motor cycle parking spaces.
Residential Parking	<ul style="list-style-type: none"> Second storey commercial tenancy off Terralong Street frontage with floor area of 245 m². Loading docks for the supermarket, and a second separate loading dock area for the other retail and commercial tenancies.

Table 3 (continued)

Level (as referred to on the Architectural Drawing Set)	Proposed Use(s)
	<ul style="list-style-type: none"> A total of 108 parking spaces, including 25 accessible spaces, Bicycle parking for 36 spaces; Residential and commercial waste storage areas.
Residential Parking Mezzanine	<ul style="list-style-type: none"> 26 residential parking spaces.
Akuna/Shoalhaven Commercial / Residential Level 1	<ul style="list-style-type: none"> Third storey commercial tenancy fronting Terralong Street comprising a floor area 235 m². Three (3) retail tenancies fronting Shoalhaven and Akuna Streets comprising a total floor area of 285 m².
	<ul style="list-style-type: none"> First residential level containing twenty-three (26) residential units, including foyers to each of the towers / buildings. Secure pedestrian access from Shoalhaven Street to a lobby (A) to service residential apartments in Building A. Separate Pedestrian access from Shoalhaven Street to a lift to provide public access to the ground floor retail arcade level as well as the basement commercial parking levels. Pedestrian access from Akuna Street to Lobbies D & E to service residential apartments in Buildings D & E. Pedestrian access to stairwell and lift with direct access to Akuna Street to direct provide pedestrian access to the ground floor retail arcade with access to Terralong Street. Three separate communal open space areas located between Buildings A, B and C comprising a total area of 832 m² and communal open space area located on the north side of Buildings D and E comprising an area of 219 m², providing a total communal open space of 1051 m² at this level. The communal open space for Buildings D & E are connected to a communal room comprising a floor space of 60 m².
Residential Level 2	<ul style="list-style-type: none"> Second residential level containing thirty (30) residential units. Separate pedestrian access from Akuna Street to Lobbies (B & C) to service residential apartments in Buildings B & C.
Residential Level 3	<ul style="list-style-type: none"> Third residential level containing thirty-one (31) residential units.
Residential Level 4	<ul style="list-style-type: none"> Fourth residential level containing nine (9) residential units. Communal open space provided on top of Building D & E comprising 845 m². Small communal open space courtyards for buildings A, B and C comprising a total area of 72 m².

The external materials and colours proposed to be utilised will include the following:

- The exterior of the mixed use / shop-top housing component of the development (excluding Building D & E) is proposed to be finished in a combination of painted rendered walls (colour combination Dulux “Milton Moon”, Colorbond “Ironstone” with

Dulux “Lexicon”), a feature base and feature walls with “Bluestone” cladding and clear glass balustrading.

- The Terralong Street commercial development is proposed to be finished with Bluestone cladded base feature wall, Dulux “Timeless Grey” and “Milton Moon” for walling and a combination of black and clear glazing.
- The external colours and materials for Building D & E have been amended to provide variation in wall cladding including the use of “PGH Smooth Mineral”, Zinc cladding wall features, Dulux “Western Myall” and “Signature”.

Annexure 2 to this report includes the most recent drawing set for the further revised proposal.

4.2 DESIGN AMENDMENTS

As outlined in Section 3.0 of this Assessment Report, the JRPP as part of the Record of Deferral required that the development application be amended. **Table 4** below details the amendments requested by the JRPP and how the further revised proposal has addressed these requested amendments.

Table 4
Summary of how Further Revised Proposal responds to JRPP Requested Amendment

<i>JRPP Requested Amendments</i>	<i>Further Revised Proposal Design Amendments</i>
<i>Delete level 4 from building D and E and replace with communal open space to achieve height compliance on this building and closer compliance to the overall communal open space requirements.</i>	<ul style="list-style-type: none"> • Level 4 of building D & E has been deleted. • The roof space of building D & E now contains a communal open space area comprising 845 m². The further revised proposal now provides a total of 1896 m² which exceeds the minimum communal open space requirement for this development under the NSW ADG. • Building D & E despite the deletion of level 4 under the further revised proposal will still not comply with the maximum 11-m building height limit that applies to the subject land. This issue is further discussed in Section 5.2.1 of this Assessment Report.
<i>Provide a differentiated building articulation and materiality to building D and E.</i>	The further revised proposal incorporates a modified elevation and appearance to Akuna Street that differentiates it from the remainder of the development both in terms of articulation and materials / colours. This issue is further addressed in Section 5.5 of this Assessment Report.

Table 4 (continued)

JRPP Requested Amendments	Further Revised Proposal Design Amendments
<i>Review pedestrian access between Terralong Street and Akuna Street to provide more legible and direct access.</i>	The earlier proposed lift at the Akuna Street frontage of the site which provided universal access to the ground level retail car park level but a circuitous pathway route to Terralong Street through the car park and arcade has now been deleted.
	<p>The further revised proposal incorporates a pedestrian walkway extending from the Akuna Street frontage of the site along the western boundary of the development. This walkway will provide access to a stairwell at the Akuna Street frontage, and a lift that can provide universal pedestrian access directly to the ground level retail arcade and then to Terralong Street.</p> <p>The further revised proposal has incorporated additional amendments following initial reviews of the further revised proposal by Council's external architectural and urban design consultants including:</p> <ul style="list-style-type: none"> • Privacy screening and entry pergola (with climber landscaping) to both sides of the walkway to ensure privacy to adjoining residents. • A secure fence and gate at the entry gate for after-hours security. • The interface with the boundary is improved by raising the planter closer to the walkway level in lieu of being at ground level. • The stairwell has been rotated so that the narrower elevation presents to Akuna Street.
<i>Review pedestrian access for Shoalhaven Street shops basement car parking spaces.</i>	The further revised proposal includes an additional lift at the Shoalhaven Street frontage that will provide dedicated pedestrian access from the commercial parking basement levels to the Shoalhaven Street level.
<i>Provide details of houses of operation, availability of access for car parking.</i>	<p>The further revised proposal includes written confirmation that, subject to the actual intended operating hours of the commercial complex, that 6 am to 11 pm will be common practice hours for the operation of the car park.</p> <p>Access to the development will be secured by appropriate ticketing, swipe card, remotes, lift access panels (subject to specific technical requirements of each device and access asset).</p> <p>A surveillance system will be put in place in addition to building management to ensure safety and proper functioning of the complex and car park.</p>
<i>Identify locations for canopy planting in communal open space areas and update the landscape plan to reflect any changes.</i>	The landscaping plans in support of the further revised proposal have been amended to increase canopy plantings at both the podium and roof top communal open space areas. Planters are provided and sized (12 m ³ to 31 m ³) to enable the provision of small to slightly smaller than medium size trees.

Prior to the submission of the revised plans and supporting documentation for the further revised proposal, the Applicant met with Council staff, the Council's architectural & urban design consultant, and independent planning consultant to discuss initial plans for the further revised proposal. As a result of these initial discussions the following amendments were also incorporated into the further revised proposal:

- Amendments were undertaken to the materials and form of the entry awnings to provide a zinc cladded finish and appear to provide a lighter cantilevered form.
- The communal open space on the roof of Building D & E was increased in area, and smaller communal open space areas have also been added to Buildings A, B and C. This has been achieved within the previous lobby and balcony footprint. The overall communal open space for the development now exceeds the requirements of the NSW ADG.
- "Timber look" slatted screens are proposed across the facades of buildings A to C. Zinc cladding is also proposed to the redesigned cantilevered awnings across all residential entries.
- A smaller temporary bin storage area has been provided within the Residential Parking level under Building D & E. Residents of this building will not have to take their waste all the way to the main waste bin storage room adjacent to the second loading zone. Rather site management will take the bins from this temporary bin storage area to the main storage area.
- An additional skylight has also been provided to the retail arcade to improve natural daylight to the retail arcade area.

5.0 SUPPLEMENTARY ASSESSMENT

The Record of Deferral issued by the JRPP required that a supplementary report be prepared that addresses:

- The amendments to the proposal as detailed in point 1 of the JRPP Record of Deferral.
- The findings of the review of the revised proposal by Council's external architect and urban design consultant with respect to the appropriateness of:
 - Architectural language
 - SEPP 65
 - Urban design outcomes
- Include a consolidated traffic assessment that responds to concerns raised by the community; and
- Includes any relevant changes to conditions.

This section of this supplementary report will provide an assessment addressing point 1 of the JRPP Record of Deferral. It should be noted that Section 4.2 of this report provides a summary of how the further revised proposal has been modified to address the matters raised in point 1 of the JRPP's Record of Deferral.

Annexure 1 to this supplementary report is a copy of our firm's Assessment Report dated 13th April 2018 which addressed the previous revised proposal. This Assessment Report included a detailed assessment of this development application having regard to the matters for consideration listed under Section 4.15 of the Environmental Planning & Assessment Act. This supplementary assessment report does not duplicate this previous assessment in relation to the further revised proposal having regard to all the environmental planning instruments and issues considered in the previous Assessment Report. This supplementary assessment report however does address specific provisions of environmental planning instruments which have specific relevance to the further revised proposal.

5.1 RELEVANT STATE ENVIRONMENTAL PLANNING INSTRUMENTS

5.1.1 State Environmental Planning Policies

5.1.1.1 *State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development*

This policy aims to improve the design quality of residential flat development in NSW.

A revised Design Verification Statement signed by architect Angelo Di Martino (NSW Registration No. 7608) and principal of ADM Architects (being a suitably qualified person) has been lodged in support of the further revised proposal in accordance with this SEPP.

There is a close and integrated relationship between SEPP 65 and the NSW Apartment Design Guide. SEPP 65 refers to some parts of the NSW Apartment Design Guide (ADG) that must be applied when assessing development applications. Objectives, design criteria and design guidance in Parts 3 and 4 of the ADG that are referred to in SEPP 65 prevails over any inconsistent DCP control. Parts 3 and 4 set out objectives, design criteria and design guidance for the siting, design and amenity of residential apartment development.

Certain design criteria referred to in the SEPP 65 cannot be used as a reason to refuse a development application if complied with.

SEPP 65 establishes nine design quality principles to be applied in the design and assessment of residential apartment development. The ADG provides greater detail on how development proposals can meet these principles through good design and planning practice.

The original Assessment Report (**Annexure 1**) provided a compliance checklist arising from an assessment of the previous revised proposal having regard to the ADG.

Urban design issues, including some of the main urban design issues arising from the assessment of the proposal having regard to the ADG have been further reviewed as part of the Architectural and Urban Design Review undertaken by BHI Architects (**Annexure 3**). This is further addressed in Section 5.5 of this supplementary assessment report.

5.2 RELEVANT LCOAL ENVIRONMENTAL PLANNING INSTRUMENTS

5.2.1 Kiama Local Environmental Plan 2011

5.2.1.1 *Principal Development Standards*

Building Height

Clause 4.3 of the KLEP 2011 requires that the height of the building does not exceed the maximum height shown on the Height of Buildings Map. In this instance the maximum building height map indicates a maximum building height of 11 metres applying to the subject land measured vertically from the highest point of the building to the existing ground level below.

As detailed in the previous Assessment Report buildings A, B and C of the proposed development each encroach the 11 metres building height limit to varying degrees. The JRPP did not require any changes to the heights of Building A, B or C. The previous Assessment Report (**Annexure 1**) addresses the encroachments of the 11-metre building

height limit as it applies to this site for Buildings A, B and C. This supplementary report will therefore not address this aspect further in relation to Buildings A, B and C.

The further revised proposal has been amended by deleting level 4 from Building D and E and replaced with communal open space as required by the JRPP Record of Deferral. The JRPP purposes for requiring the deletion of Level 4 from Building D & E was to achieve height compliance on this building and closer compliance to the overall communal open space.

With the use of level 4 of Building D and E for communal open space, as well as the inclusion of additional level 4 communal open space areas on Buildings A, B and C, the further revised proposal now satisfies the communal open space requirements for the development under the NSW ADG.

Building D & E under the further revised proposal however still exceeds the 11-metre building height limit as follows

- In order to provide lift and stairwell access to the communal open space on level 4 a lobby providing access to a lift and stairwell has been provided. The roof of this lobby area will have a maximum height above existing ground level of 14.18 metres, and exceeds the 11 metre building height limit by 3.18 metres.
- The residential floor levels for Building D & E have also been raised by 1.2 metres from the previous revised proposal. The rationale for raising these floor levels has evolved following consultation with Council's architectural and urban design consultant and has sought to improve residential amenity to level 1 apartments situated below the Akuna Street level. Such has also been undertaken to improve activation of this street frontage. In addition to raising the lobby roof for the communal open space, this has resulted in the northern parts of the level 3 roof extending above the 11-metre ground level for Building D & E from about 1.1 m at the north-western corner of this building to 1.67 metres towards the north-western part of this building.

Floor Space Ratio

Clause 4.4 requires that the floor space ratio of a building does not exceed the maximum floor space ratio shown on the Floor Space Ratio (FSR) map. In this instance two different floor space ratios apply to the site. The western part of the site has a maximum permissible FSR of 1.5:1 while the eastern part of the site has a maximum permissible FSR of 2:1.

The further revised proposal comprises an FSR for the eastern part of the site of 1.53:1 which is less than the 2:1 FSR that applies to this part of the site. The development

however proposes an FSR of 2.02:1 for the western part of the site where a maximum permissible FSR of 1.5: 1 applies. It should be noted that with the deletion of level 4 from Building D & E the floor space ratio for this part of the site has been reduced from 2.19:1 as outlined in the previous revised proposal.

If the permissible FSR for both the eastern and western sites were combined the development site would enable a development with 14, 396.4 m². The further revised proposal provides a total flood space of 13, 368.2 m², which is below the overall permissible FSR for the overall site combined.

Active Street frontage

Clause 6.8 (Active Street Frontages) seeks to promote uses that attract pedestrian traffic along certain ground floor street frontages within B1 and B2 zones. For the purposes of this clause a building has an active street frontage if all premises on the ground floor of the building facing the street are used for the purposes of business or retail premises. This clause also seeks to ensure the ground floor will not be used for residential accommodation or a car park.

As with the previous revised proposal, the further revised proposal provides an active street frontage to the Terralong and Shoalhaven Streets frontages and to that part of the Akuna Street frontage adjacent to the Shoalhaven Street intersection, with two retail tenancies having frontage to Akuna Street (with two retail tenancy entirely fronting Shoalhaven Street). Clause 6.8 is satisfied for this part of the development. The Proposal, however, west of Building A does not meet Clause 6.8 as the ground floor of Buildings B - E do not provide business or retail premises facing Akuna Street, but rather provide residential accommodation.

In addition, the development also includes car parking that will not strictly comply with the definition of “basement” and therefore would be defined as ground floor, and therefore also contrary to clause 6.8(3)(b).

(It is acknowledged that the Applicant’s town planning consultant does not agree with the above interpretation with respect to the basement car park on the basis that the objective of this clause is to provide an active street frontage. The Applicant has however submitted a revised Clause 4.6 submission that also addresses this aspect as well).

5.2.1.2 Clause 4.6 Exceptions to Development Standards

Clause 4.6 provides for exceptions to certain development standards where requested and justified in writing by the Applicant and where the consent authority is satisfied that:

- The Applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3) (ie. that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case and that there are sufficient environmental planning grounds to justify contravening the development standard); and
- The proposal development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out.

As detailed above, the Proposal does not comply with the following development standards as detailed in the KLEP 2011:

- The building height limit set for the site under clause 4.3.
- The floor space ratio limit that applies to the western part of the site as set by clause 4.4.
- As with the previous proposal, the further revise proposal does not provide an active street frontage to entire length of the Akuna Street frontage of the site as required by clause 6.8.

The Further Revised Proposal is supported by three separate written requests prepared pursuant to clause 4.6 prepared by TCG Planning.

The issues raised by the clause 4.6 written requests in relation to 6.8 (active street frontage) have not fundamentally changed from that considered in the original Assessment Report and which is included in **Annexure 1** to this report. Under these circumstances, this clause 4.6 written request will not be further considered in this supplementary assessment report.

The clause 4.6 written request relating to the building height exceedance of Buildings A, B and C were also considered as part of the previous Assessment Report (**Annexure 1**). This clause 4.6 written request as it applies to Buildings A, B and C will also not be considered further in this supplementary report.

In light of the JRPP's Record for Deferral to delete level 4 from Building D & E with the view of achieving height compliance, the main issue arising from the further revised proposal relates to the continued exceedance of the 11 metres building height restriction under the LEP as it relates to Building D & E despite the removal of level 4. This supplementary report will therefore discuss the Applicant's Clause 4.6 written request in terms of the building height compliance of Building D & E as well as floor space ratio.

Building Height – Building D & E

Applicants Clause 4.6 Written Request

The Applicants Clause 4.6 Written Request in summary justifies the continued building height limit breaches of Building D & E associated with the further revised proposal on the following grounds:

- As detailed in the earlier clause 4.6 written requests with respect to the previous revised proposal, the Applicant contends that the topography of the site slopes downward from the south (Akuna Street) to the northern boundary of the site, which abuts the many rear property boundaries of the Terralong Street shops. Retaining walls exist along many of these rear property boundaries resulting in ground floor levels being much lower than the subject land that fronts Akuna Street. The portion of the site west of the laneway has a crossfall of about 8 metres from RL 25 m at the south-western corner at Akuna Street to RL 17 m at the north-eastern (Shoalhaven Street) corner. The design of the development has responded to the challenging topography through the provision of a main retail level at the lower ground level (Terralong Street level) and also commercial frontage to the Shoalhaven Street and Akuna Street frontages at the eastern and south-eastern boundary of the subject site.
- The majority of the Level 4 roof is compliant at the Akuna Street elevation but exceeds up to a maximum exceedance of 1670 mm on the north-eastern elevation and up to 3180 mm for the roof over the lift lobby servicing the communal open space. These are maximum exceedances, with the extent of exceedance generally tapering away towards compliance towards the Akuna Street frontage of the site (with the exception of the lift lobby roof).
- Whilst the floor levels of Building D & E have been increased by 1.0 m (actually 1.2 m) to address Council's concern regarding the positioning of the ground floor level of this building in relation to Akuna Street, the overall visual impact of this building has been reduced through the deletion of Level 4 which contained 4 residential units. Whilst the roof over the lift lobby increases the extent of numerical non-compliance, it is noted that this area has a limited floor plate and hence its visual impact will be significantly less than the previous exceedance by the 4 residential units.

The Clause 4.6 Written Request concludes:

"This Statement has addressed the provisions of Clause 4.6 of Kiama LEP 2011 and demonstrates that the variation sought to the development standards of the LEP (Building Height) is justifiable and should be given concurrence to, on the basis of the unique site context (large central site with

multiple street frontages and challenging topography), the lack of adverse impacts resulting from the non compliance and the suitability of the design. It is emphasised that the removal of the non-compliant units would deem the development economically unfeasible, and would not result in any greatly improved outcome with respect to visual impact or overshadowing. We therefore request that Council implement a reasonable approach to the proposed height for the site which has no additional unreasonable impacts on adjacent properties and the public domain.”

Response

Discussion on the issue of exceedance of the 11 metres building height that applies to the subject site in relation to Building D & E is detailed further in Section 5.4 of this report.

Having regard to the discussion in Section 5.5 of this report on urban design implications of the further revised proposal, and having regard to the Applicant's clause 4.6 submission, whilst Building D & E of the further revised proposal encroaches the 11-metre building height limit, it is considered this building will still achieve the stated objectives of clause 4.3 and the B2 zone that applies to the land:

- The Akuna Street elevation of the further revised proposal will sit below the 11 metre building height limit. It will only be the lift lobby structure and portions of the northern part of the development that will rise above the height limit. These northern portions of the building however, will not be visually prominent as they will be largely obscured from view to the north by development along Terralong Street. Under these circumstances the further revised development will be consistent with the desired scale and character of development within this area. In this regard the extent of encroachment of the height limit is not dissimilar to the height encroachments of buildings A, B and C along their northern elevations. In this regard these buildings encroach the 11-metre height limit from 1.08 (Building B) to 2.43 m (Building A).
- The further revised proposal will also not result in overshadowing to adjoining development or the public domain.
- The revised proposal does provide retail and commercial uses (including a supermarket) that will serve the needs of people who live in, work in and visit the local area.
- The subject land is situated within close proximity of the Kiama Railway station (270 m); bus stop (50 metres from Terralong Street frontage of site); taxi rank (50 m). The establishment of a supermarket and commercial developments as part of the proposal will encourage employment opportunities in a location that is accessible.

- As detailed in the bullet point above the site is within walking distance of a range of public transport services. The site is also situated within walking distance of a range of commercial, community and recreational facilities. The development also provides bicycle parking facilities which exceed Councils requirements. A retail development with shop-top housing in this location has the potential to maximise public transport patronage and encourage walking and cycling.

There are also environmental planning grounds that justify the overall further revised proposal most notably the development provides scope for an integrated development approach to this overall strategically placed development site within the Kiama CBD; as opposed to piecemeal development over the various allotments.

The further revised proposal has deleted the level 4 apartments from Building D & E, and instead converted this space to communal open space. This ensures the development satisfies communal open space requirements for the site. However, there is still a need to ensure lift access to this roof top communal open space. The lift lobby (which has a relatively small footprint) which in part exceeds the 11 metre height limit. The lift however is necessary to enable access to the roof-top communal open space.

In addition, the residential floor levels of the further revised proposal have been raised by 1.2 m to improve the residential amenity of the lower level residential units in relation to the Akuna Street frontage of these units. Raising the levels of these units in relation to Akuna Street will also improve the activation of this section of Akuna Street. These amendments have come about following consultation between the Applicant and Council's architectural and urban design consultant.

Furthermore, the further revised proposal still provides for the retention of significant trees along the Akuna Street frontage of the site as requested by the JRPP; as well as enabling pedestrian access along this road frontage where currently there is no such provision.

Maintaining the development standard in this case will have little public benefit. As detailed above, the main areas of encroachment of the height limit are to the north of the upper level of the building. The building height encroachment will not create a significant visual impact within the locality; nor will it result in any significant overshadowing impacts of surrounding development.

The encroachment of the building height limit in this case also does not raise any matters of significance for State and regional planning relevance.

Given the above circumstances, having regard to the points raised in Section 5.5 of this supplementary report and having regard to the Applicant's written request made pursuant

to clause 4.6 of the Kiama LEP 2011, there is sufficient justification to warrant supporting the encroachments of the 11-metre building height for building D & E pursuant to clause 4.3 of the Kiama LEP 2011 by the revised proposal.

Floor Space Ratio

Applicant's Clause 4.6 Written Request

The Applicants Clause 4.6 Written Request in summary justifies the exceedance of the floor space ratio for the western part of the site under the further revised proposal on the following grounds:

(The Applicants Clause 4.6 Written Request refers to the development comprising two "Sites" as "A" which is that part of the development site to the west of the unnamed lane, and Site B to the east of this lane. That part of the development located in Site A does not comply with the FSR requirement for this site; while Site B does.)

- The density, built form and outcomes of the development in Site A are suitable as the development is integrated with the adjoining land to the immediate east (Site B) by way of connected car parking, servicing arrangements and varied points of access.
- The significant consolidation of lands results in the building form being of an increased FSR for the western part of the site; however, the building articulation and manipulation of elements attempt to reduce its apparent scale when viewed from the public domain and impacts from the increased GFA at that part of the site.
- The exceedance in FSR equates to 1414.3 m² additional GFA located on Site A, with Site B containing 2442.5 m² less GFA than that permitted. Hence, overall the combined site contain 1028.2 m² less GFA than that permitted.
- It is noted that the retail arcade and back or house area of Aldi are accommodated below ground however the floor area is included in the calculation of FSR. This area does not have any physical/built form impacts on the streetscape and adjoining land than if the FSR were complied with (above ground).
- As a result, the functioning of the site is not limited to the land west of the unnamed laneway (to which the 1.5:1 FSR control applies), and therefore this land is more capable of accommodating additional floor area.
- While some of the built form within Site A (Building D & E) exceeds the 11 metre height limit, the removal of the upper level (level 4) will further minimise visual, privacy or amenity impacts to other properties or public areas.

- These non-compliant portions will not cause any adverse or additional impacts that if the development standard were met.
- The rationale for the existing environmental planning controls is unknown. According to TCG Planning, there is no sound environmental planning grounds as to why the difference FSR control applies across the development site.
- Despite the exceedance, according to TCG, the proposal will be in the public interest as it meets the objectives of the development standard as:
 - The density, built form and outcomes of the development in Site A are suitable as the development is integrated with the adjoining land to the immediate east (Site B) by way of connected car parking, servicing arrangements and varied points of access.
 - As a result, the functioning of the site is not limited to the land west of the unnamed laneway (to which the 1.5:1 FSR control applies), and therefore this land is more capable of/has the capacity to accommodate additional floor area.
 - "Averaging" the FSR across the entire site results in the same total GFA if the FSR was complied with for each part of the site
 - The non-compliant portions will not cause any adverse or additional impacts than if the development standard were met.

The Clause 4.6 Written Request concludes:

"This Statement has addressed the provisions of Clause 4.6 of Kiama LEP 2011 and demonstrates that the variation sought to the development standards of the LEP (FSR) for the western part of the development site (Site A) is justifiable and should be given concurrence to, on the basis of:

- *The limited extent of the non-compliance on this part of the site only. The exceedance in FSR equates to 1414 m² additional GFA located on Site A, with Site B containing 2442 m² less GFA than that permitted. Hence overall the combined sites contain 1028.2 m² less GFA than permitted.*
- *The GFA is accommodated below ground and does not have any physical/built form impacts on the streetscape and adjoining land than if the FSR were complied with (above ground);*
- *There is no apparent strategic or environmental planning justification for the separate FSR controls across the entire site.*
- *There are distinct benefits of "averaging" the FSR across the entire site which results in the same total GFA if the FSR was complied with for each part of the site.*
- *The design is suitable as it integrates with the adjoining land to the immediate east (Site B) by way of connected car parking, servicing*

arrangements and varied points of access. This combined site area is more capable of accommodating additional floor area on Site A than if it was isolated.

- *The proposed FSR of 2.02:1 for the western Block A will not cause any adverse or additional impacts than if the development standard were met;*

We therefore request that Council implement a reasonable approach to the proposed "averaged" FSR for the site, which has no additional unreasonable impacts on adjacent properties and the public domain."

Response

The further revised proposal comprises an FSR for the eastern part of the site of 1.53:1 which is less than the 2:1 FSR that applies to this part of the site. The development however proposes an FSR of 2.02:1 for the western part of the site where a maximum permissible FSR of 1.5: 1 applies. It should be noted that with the deletion of level 4 from Building D & E the floor space ratio has been reduced from 2.19:1 from the previous revised proposal.

As previously stated in the earlier Assessment Report I have been unable to determine the planning rationale as to why the eastern part of the subject land was identified as having an FSR of 2:1 while the western part was restricted to an FSR of 1.5:1; while at the same time an 11-metre height limit applies across the whole of the subject land.

At its meeting on the 13th April 2018 the JRPP did not raise specific concern about the non-compliance with the floor space ratio requirements as it applies to the site, and this issue was not specifically reflected in the formal Record of Deferral.

The stated objectives that underpin clause 4.4 in relation to the floor space ratio state:

- (a) *to ensure that development is in keeping with the optimum capacity of the site and the local area,*
- (b) *to define allowable development density for generic building types.*

The zone objectives of the B2 zone are discussed in the original Assessment Report (**Annexure 1**).

Given the lack of strategic planning merit underpinning the difference in floor space ratio requirement that applies to the two parts of the site, I do see merit in an approach that seeks to "average" the floor space ratio across the development site. This is particularly the case given this development provides an integrated approach to the development of the overall site in terms of built form, vehicle access and parking.

If the permissible FSR for both the eastern and western sites were combined the development site would enable a development with 14, 396.4 m². The further revised

proposal provides a total floor space of 13,368.2 m², which is below the overall permissible combined FSR for the overall site combined.

As identified by the Applicant, the calculation of the floor space ratio for the western part of the site includes floor space that is largely encapsulated below ground level. This floor space does not of itself create any external impacts either in terms of the bulk and scale of the development, streetscape or impacts on neighbouring properties (ie. such as overshadowing or privacy).

Having regard to the objectives that underpins clause 4.4, notwithstanding the non-compliance with the FSR for part of the western part of the site, the further revised proposal will still in my view be in keeping with the optimum capacity of the site and the local area given:

- Council's urban design consultant (BHI) now indicates the proposal provides a suitable urban design response to the site and locality.
- The overall floor space for the total development site is less than that which would be permitted if the floor space ratios for the overall site were combined.
- The further revised proposal still retains and protects significant trees along the Akuna Street frontage of the site, while also providing pedestrian access along the Akuna Street frontage of the site.
- Council's Heritage Adviser advises the proposed development will have minimal impact on the setting and significant views to and from heritage items in the vicinity.
- The development is able to provide sufficient on-site car parking to meet the demands for both the commercial land uses as well as residential apartments proposed within the development.
- As is evident from the traffic assessment undertaken in support of the application, the findings of which are supported by Council's consolidated traffic assessment the development will not generate a level of traffic that cannot be accommodated within the local road network (subject to certain works and upgrades).
- The revised proposal will not significantly impact the amenity of surrounding properties in terms of loss of privacy or overshadowing.

As detailed in the original Assessment Report (**Annexure 1**), the further revised proposal is also considered to be consistent with the objectives of the B2 zone that applies to the land.

The encroachment of the FSR in this case also does not raise any matters of significance for State and regional planning relevance.

Given the above circumstances, and having regard to the Applicant's written request made pursuant to clause 4.6 of the Kiama LEP 2011, it is my view there is sufficient justification to warrant supporting the strict non-compliance with the 1.5:1 floor space ratio requirement as it applies to the western part of the site that applies to the site pursuant to clause 4.4 of the Kiama LEP 2011 with respect to the further revised proposal.

5.3 DEVELOPMENT CONTROL PLANS

5.3.1 Kiama Development Control Plan 2012

5.3.1.1 Chapter 5 – Medium Density development

The further revised proposal is generally consistent with the requirements of Chapter 5 of the DCP, except in relation to the following matters, where variation is sought:

- Control C1 – meet the principal development standards under LEP 2011.

The further revised proposal breaches the building height, FSR and active street frontage development standards as outlined under LEP 2011. The Proposal does not comply with Clauses 4.3, 4.4 and 6.8 of the LEP 2011 with exceptions sought pursuant to Clause 4.6. These matters are addressed within Section 5.1.10.3 of the Assessment Report (**Annexure 1**) and in Section 5.2.1 above in relation to building height and FSR. report. These matters have been discussed in detail and the breaches with respect to building height and FSR are now considered acceptable.

- Control C10 – setbacks for development 3 or more storeys, 6 m to primary road frontage.

Refer discussion on Chapter 26 Kiama Town Centre.

- Control C12 – 75% of dwellings must have dual aspect. 60 of 100 apartments (60%) have dual aspect.

This matter was addressed in the Assessment Report (**Annexure 1**). This clause of the DCP is inconsistent with the NSW ADG which requires 60%. Clause 6A of SEPP 65 confirms that with respect to the objectives, design criteria and design guidance set out in Parts 3 and 4 of the ADG, Development control plans cannot be inconsistent with the ADG in respect of the following "(g) natural ventilation". Further, subclause 6A(2) clarifies that *"if a development control plan contains provisions that specify requirements, standards or controls in relation to a matter to which this clause applies,*

those provisions are of no effect", whilst subclause 6A(3) clarifies that "this clause applies regardless of when the development control plan was made".

- **Control C31** – requires apartments to have balconies as follows (all to have 3 m minimum depth and be directly accessible from an indoor living area):
 - one-bedroom apartments – 16 m²;
 - two-bedroom apartments – 20 m²;
 - three plus bedroom apartments – 24 m²;
 - ground floor or podium apartments to have POS of min. 15 m²;
 - 70% to receive a minimum of 3 hours direct sunlight between 9:00 am and 3:00 pm during midwinter.

The proposed development provides the following minimum balcony areas:

- One bedroom apartments: 8 m² (min. depth 2.4 m);
- Two bedroom apartments: 11 m² (min. depth 2.0 m);
- Three bedroom apartments: 60 m² (min. depth 2.2 m).

The minimum balcony areas and minimum width of balconies comply with the ADG/SEPP 65 requirements. DCP controls are contrary to Clause 6A of the SEPP.

- **Control C36** – This clause requires residential dwellings in mixed-use buildings to have a 3.3 m minimum finished floor level to finished ceiling level (for residential only buildings: 2.7 m for habitable rooms and 2.4 m for non-habitable rooms).

The proposed development provides a 3.5 m to 4.5 m floor to ceiling height for the retail spaces and a 2.7 m floor to ceiling height for the residential units. The application seeks a variation in this regard citing: provision of 3.3 m ceiling heights is unwarranted, given the extent of commercial uses at the ground floor of the multiple frontages, in addition to the challenges of the natural topography of the site. This issue is discussed further in Section 5.5.

- **Control C43** – Site design must optimise the provision of consolidated deep soil zones by ensuring buildings and basement/sub-basement/surface car parking do not to fully cover the site allowing for 25% deep soil landscaping.

The Applicant contends that the commercial zone/town centre location that permits minimal and zero setbacks and higher density should not warrant the provision of a deep soil zone (25% of site area) that would normally apply to medium density developments in a suburban context. The issue of deep soil zones is also addressed with respect to the provisions of the ADG (refer Section 5.5)

5.3.1.2 Chapter 9 – Car Parking Requirements

The revised proposal incorporates five basement car parking levels accommodating a total of 346 car parking spaces.

The proposal triggers separate parking requirements between the retail / commercial and residential components.

Retail and Commercial Component

- Terralong Street retail and commercial component
 - Total GLFA = 716 m² @ 1 space / 35 m² = 20.5 car spaces.
- Akuna and Shoalhaven Streets commercial
 - Total GLFA = 285 m² @ 1 space / 35 m² = 8.2 spaces.
- Shopping Arcade and Supermarket
 - Total GLFA = 2724 m² @ 6.1 spaces / 100 m² = 167 spaces.

Total retail and commercial parking allocation equates to 196 car spaces

Residential Component

The residential component draws on the Section 2.2 of Chapter 9 of the Kiama DCP which recommends a minimum number of off street residential parking spaces as follows:

- 1 space per one or two bedroom dwellings:
 - 38 x 1-bedroom car spaces;
 - 58 x 2-bedroom car spaces.
- 1 space per 2 dwellings for visitor parking:
 - 96 units – 48 spaces.

Total residential parking allocation equates to 152 spaces.

Consequently, a total of 340 parking spaces are required to be provided. The development provides 346 spaces which complies. The residential and visitor parking is compliant with the Council's DCP requirement, and there is a surplus of 6 commercial spaces. (It should be noted that the surplus commercial parking spaces are located on the eastern part of the overall site, where the floor space ratio of the development is 1.53:1 which is well below the maximum 2:1 limit. In the event that this surplus parking is considered as GFA the maximum FSR for the eastern part of the site will not be exceeded.)

Under Council's DCP a total of 66 bicycle parking spaces should be provided comprising:

- 51 residential bicycle parking spaces; and
- 15 commercial / retail bicycle spaces.

The proposal provides a total of 74 bicycle parking spaces comprising 52 resident and visitor spaces and 22 commercial/retail spaces which more than satisfies the Council's DCP requirements.

The revised proposal satisfies Council's DCP requirements for on-site parking.

5.3.1.3 Chapter 26 – Kiama Town Centre

The proposed development is generally consistent with the requirements of Chapter 26 of the DCP. The following matters however arise:

- Section 4 – Future Building design – A general building height of no more than three (3) storeys applies;
- Section 6 – Buildings should extend to the property boundaries where appropriate to reinforce the street patterns and the continuity of existing street façades. Continuous building frontages are required along key activity routes and preferred on all other routes.
- Section 7(a) – Scale, building height and bulk – On major public corners and prominent entrance sites, a three (3) storey height limit should be imposed.

The 3 storey height limit within Chapter 26 were effectively carried through from the previous DCP 13 – Kiama Town Centre, which was adopted by Council in 1997. The former DCP 13 in turn directly reflected the provisions of the then Kiama LEP 1996. Clause 50(2)(a) of LEP 1996 specified a maximum 3 storey height limit for development in the Kiama CBD.

The current LEP 2011 however stipulates a maximum building height limit of 11 metres at the site, leaving the number of storeys that may be accommodated within the height limit dependent upon the design requirements of the ADG and the BCA. As outlined in detail with respect to Clause 4.3 of the LEP 2011 the revised proposal seeks approval for breaches of the 11 metres height limit pursuant to Clause 4.6, which are now supported by this assessment.

Sections 5.4 and 5.5 of this report addresses the streetscape and urban design issues associated with this proposal in further detail.

5.4 THE AMENDED PLANS

As required by point 3 of the JRPP Record of Deferral, this section of the supplementary assessment report addresses point 1 of the Record of Deferral which relates to the JRPP's requirements for amendments to the plans for the project.

Section 4.2 of this supplementary assessment report provides a summary as to how the further revised proposal has been amended to address point 1 of the JRPP's Record of

Deferral. This section of the report will provide further discussion with respect to how the proposal has been modified in response to point 1 of the JRPP's Record of Deferral.

- 1. Delete level 4 from building D and E and replace with communal open space to achieve height compliance on this building and closer compliance to the overall communal open space requirements.**

Comment

The further revised proposal has deleted level 4 from building D & E.

The roof space of Building D & E now contains a communal open space area comprising 845 m². Building D & E will still also retain the communal open space on level 1 on the northern side of this building as proposed in the previous revised proposal with access from a communal room.

In addition, the further revised proposal has incorporated smaller communal open space courtyards at level 4 for each of Buildings A, B and C with direct access from the lift lobby of each of these buildings. These courtyards will each comprise an area of 24 m² (i.e. a total increase in communal open space of 72 m²).

The further revised proposal now provides a total communal open space area of 1896 m².

Under Section 3D of the NSW ADG, communal open space is required to be provided at a rate of 25% of site area. As the site for the shop top housing comprises an area of 7193 m², 1798 m² of communal open space should be provided for the development under Section 3D of the NSW ADG. The further revised proposal now exceeds this guideline requirement for communal open space by 98 m². The further revised proposal therefore complies with the communal open space requirement for this development under the NSW ADG.

Building D & E despite the deletion of level 4 under the further revised proposal however will still not comply with the 11 m building height limit that applies to the subject land under clause 4.3 of the Kiama LEP 2011 (see Section 5.2.1.2).

The Applicant has supplied building height plane diagrams which detail the extent of encroachment of the 11 m building height limit. These diagrams are reproduced as **Figures 2 and 3** below.

In addition, the southern elevation drawing A-203 which forms part of the Architectural drawing set for the further revised proposal includes a comparison of the further revised proposal when viewed from Akuna Street and the outline of the previous revised proposal. An extract of this elevation is included as **Figure 4** of this report.

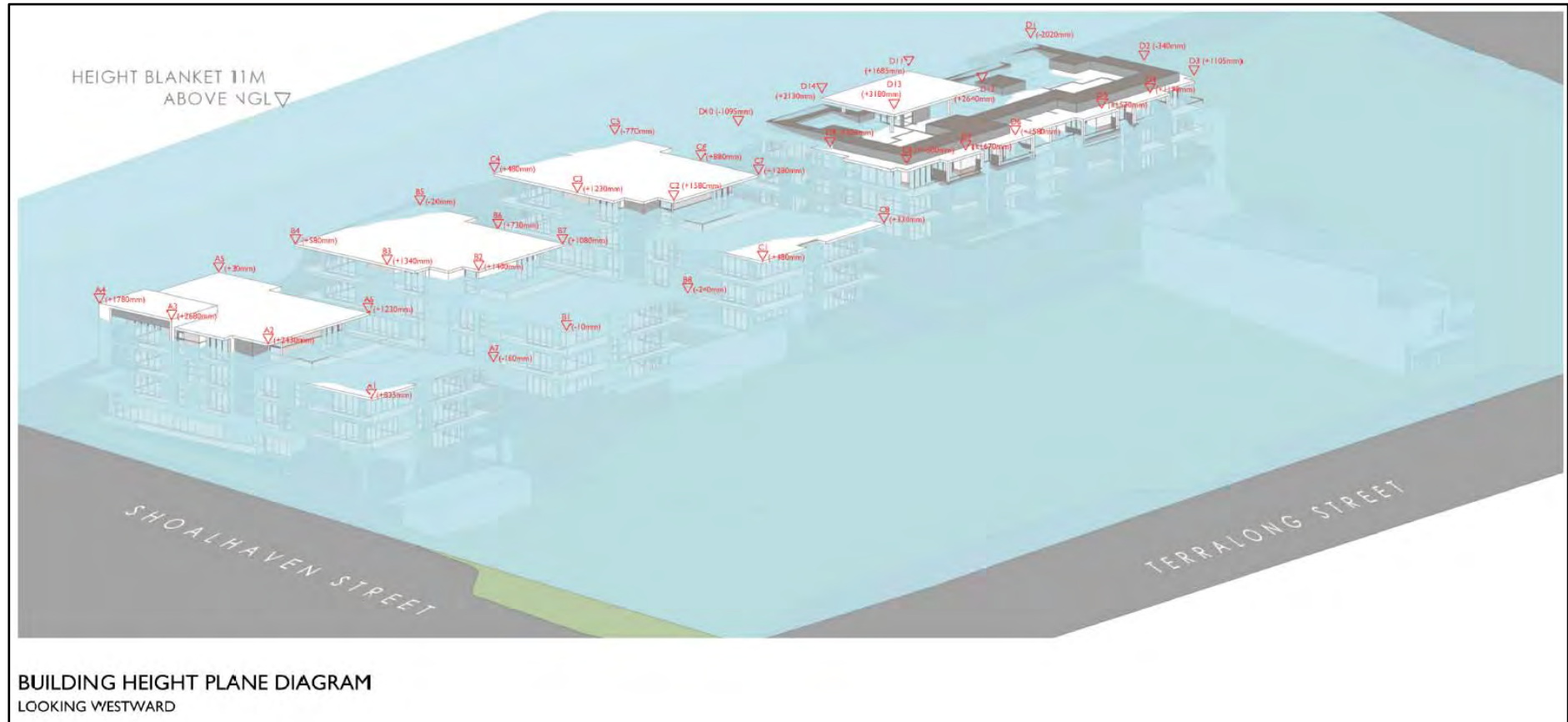


Figure 2: Building Height Plane Diagram (looking westward)
(courtesy ADM Architects).

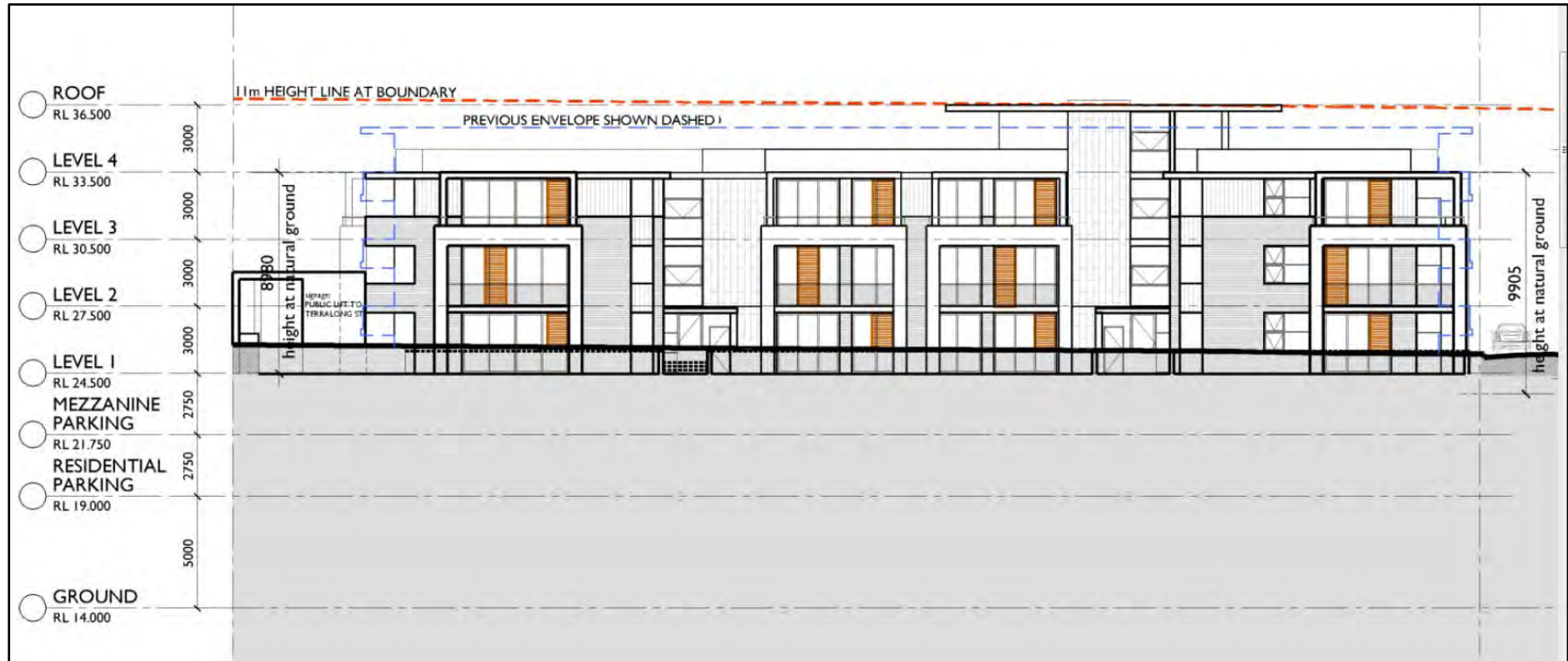


Figure 4: Extract South Elevation (Akuna Street Aspect) Drawing Number A203 (courtesy ADM Architects).

As detailed in Section 5.2.1 of this report the exceedance of the 11-metre building height for Building D & E, despite the deletion of level 4, has come about as a result of:

- The provision of a lift and stairwell to enable access to the communal open space on level 4 has required the provision of a lobby providing access to a lift and stairwell. The roof of this lobby area will have a maximum height above existing ground level of 14.18 metres, and exceedance of the 11-metre building height limit by 3.18 metre.
- The residential floor levels for Building D & E have also been raised by 1.2 metres from the previous revised proposal. In addition to raising the lobby roof for the communal open space, this has also resulted in the northern parts of the level 3 roof extending above the 11-metre ground level for Building D & E from about 1.1 m at the north-western corner of this building to 1.67 metres towards the north-western part of this building. The rationale for raising these floor levels relates to reducing the height difference between Level 1 apartments and the Akuna Street level improving resident amenity for these units and enabling greater activation of the street frontage.

As is evident from **Figure 4** above, when viewed from Akuna Street, the development will sit well below the 11-metre building height, and below the outline of the previous revised proposal, with the exception of the lift lobby which will sit within the 11-metre building height limit.

The parts of the further revised proposal where the most significant encroachments of the building height limit occur are located toward the northern extent of the upper level of the development. This part of the further revised proposal is largely internalised within the site, and this part of the development, will not be visually prominent with the broader townscape.

The Applicant has supplied photomontages which demonstrate when viewed from vantage points from along Terralong Street (the main shopping street) and Hindmarsh Park for instance, the overall further revised development will not be visually dominant, despite its exceedance of the building height limit. These photomontages include a view taken from the corner of Terralong and Collins Street which shows the further revised proposal as it relates to Building D & E (refer **Figure 5**). It is evident that Building D & E when viewed from this vantage point will not dominate the Terralong Streetscape. Under these circumstances the development will not be out of character with development within the locality.



Figure 5: Photomontage of Further Revised Proposal – view from corner of Terralong and Collins Street (courtesy ADM Architects).

As is evident from the sunlight access diagrams prepared by the Applicant, the further revised proposal will not result in adverse overshadowing of surrounding properties; or communal or public open space areas; and will ensure adequate sunlight access to apartments and private open space areas within the development.

The retention of significant trees along the Akuna Street frontage, in conjunction with proposed landscaping along this street frontage, will also 'soften' the visual impact of the development while retaining an element of the existing vegetated streetscape along Akuna Street.

As will be discussed in Section 5.5 below Council's independent architectural and urban design consultant (BHI Architects ("BHI")) have reviewed the plans supporting the further revised proposal and considers the height exceedance is justified for the reasons stated above. With respect to this specific issue BHI conclude:

- *Additional communal open space on the roof and upper levels of buildings has resulted in a compliant 1968m²/25% communal open space.*
- *Height compliance has not been achieved despite removal of level 4 and replacement with communal open space. This is due to raising the residential floor levels by 1m to reduce the height difference between the Level 1 apartments and the streetscape, which improves resident amenity and allows greater activation of the Akuna Street frontage.*
- *The overall height and perceived bulk from Akuna Street has been reduced. Components of the building above the height plane fronting Akuna Street are the building core and planter boxes, which are necessary components of the communal open space.*

BHI believes the height exceedance is justified in this position due to the above.

Given these circumstances it is considered there is sufficient justification to support the further revised proposal despite the encroachment of the 11 metre building height limit associated with Building D & E under the further revised proposal.

2. Provide a differentiated building articulation and materiality to building D and E.

Comment

The further revised proposal incorporates a modified elevation and appearance to Akuna Street that differentiates it from the remainder of the development both in terms of articulation and materials/colours. **Figure 6** is an extract from the architectural drawing set which details the amended articulation and materials for Building D & E.



**Figure 6: Extract Colour and Materials Schedule (Residential Akuna Street)
(Building D & E) (courtesy ADM Architects).**

As will be discussed further in Section 5.5 of this supplementary assessment report, Council's architectural and urban design consultant (BHI Architects) are of the view that the further revised proposal has achieved the JRPP objective with respect to this issue. BHI conclude:

- *The architectural character of the buildings fronting Akuna Street has been differentiated with a range of materials, articulation of built form and architectural detailing.*
- *Building D/E reads differently to other buildings on the site through materiality, articulation and rooftop landscaping/structures.*

BHI is satisfied that the Akuna Street frontage is sufficiently varied in its built form

3. Review pedestrian access between Terralong Street and Akuna Street to provide more legible and direct access.

Comment

The lift provided at the Akuna Street frontage of the site under the previous revised proposal sought to provide universal access to the ground level retail car park level from Akuna Street; however provided a somewhat circuitous route to Terralong Street through the car park and arcade. This pedestrian access route has now been deleted from the further revised proposal.

The further revised proposal incorporates a new pedestrian walkway extending from the Akuna Street frontage of the site along the western boundary of the development. This

The further revised proposal has incorporated additional amendments following initial reviews of the further revised proposal by Council's external architectural and urban design consultants including:

-
- Proposed pedestrian access from Akuna Street**
- PERGOLA ENTRY STRUCTURE WITH GREENERY
- SECURITY GATE AND FENCE
- COMMUNAL OPEN SPACE
- COMMUNAL ROOM
- LOBBY E
- LOBBY D
- BUILDING ENTRY
- BUILDING ENTRY
- Dimensions: 29C0, 3090, 10260, 3370, 5930, 5930, 3070, 6280, 4870, 12000
- Elevations: +25.60, +25.50, +25.50, +25.50, +25.30

Figure 7: Extract Drawing A-106 showing location of new proposed pedestrian access from Akuna Street (courtesy ADM Architects).

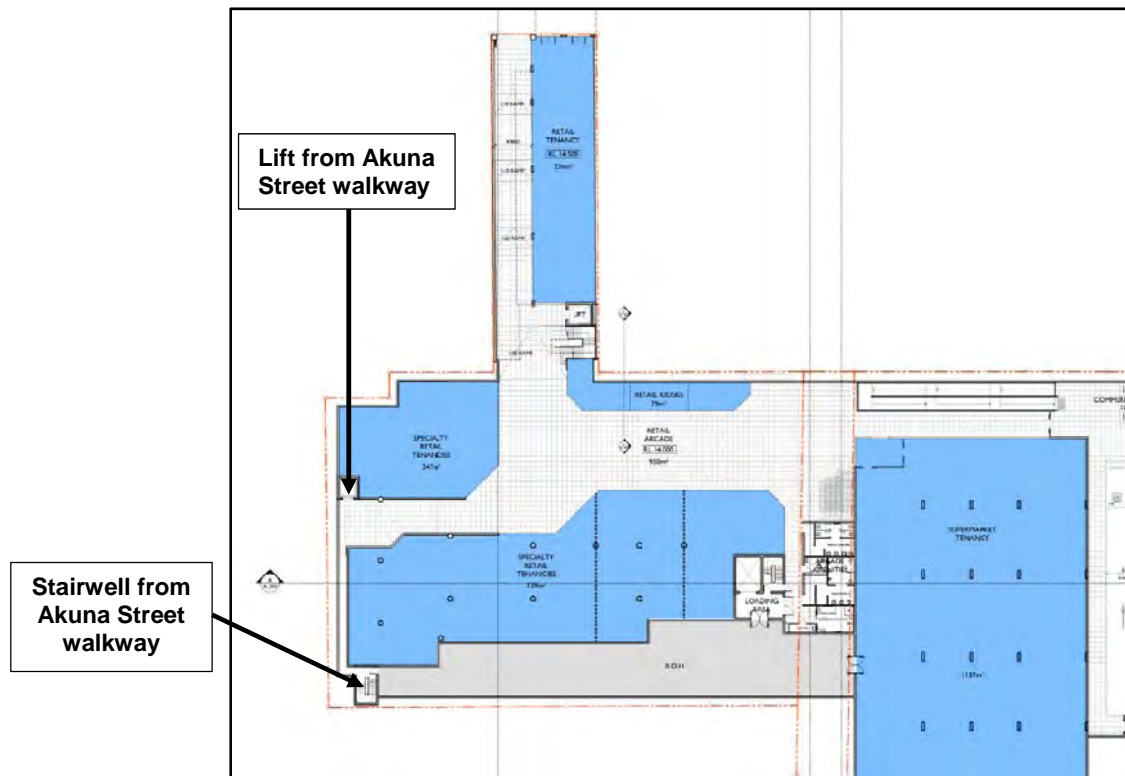


Figure 8: Extract Drawing A-103 showing location of lift and stairwell points in residential arcade (courtesy of ADM Architects).

As will be discussed further in Section 5.5 of this supplementary report Council's architectural and urban design consultant (BHI Architects) are of the view that the further revised proposal has generally achieved the JRPP objective with respect to this issue, although recommends that conditions be attached to any consent to undertake further minor modifications to better achieve these objectives. BHI conclude:

- *A much clearer pedestrian circulation route has been provided to the Western edge of the site, legible from the main circulation route within the retail arcade.*
- *A direct link through the site within building D/E was deemed inappropriate due to privacy and safety concerns. The walkway along the Western edge of the site separates the pedestrian from resident circulation.*
- *Residential privacy has been maintained through dense planting associated with the balconies of residential apartments, in conjunction with screen planting.*
- *Due to the public benefit of the walkway and the mixed-use nature of the locality, BHI believes that the nil setback to the Western boundary for the walkway is justified.*
- *The walkway presentation to Akuna Street is currently non-descript in character and blends in with Building D/E.*
- ***BHI recommends that a condition of consent be included requiring the further development of the walkway presentation to Akuna Street***

so as to read as a commercial element separate from the residential building, achieved through differential architectural detailing and materiality.

- ***BHI recommends that a condition of consent be included requiring planting to the Residential Parking Floor Plan (A-104) on the Western boundary, to the North of the raised planter box. See image below for location.***
 - ***BHI is satisfied that a legible connection across the site has been provided, connecting Terralong Street with Akuna Street.***
- 4. Review pedestrian access for Shoalhaven Street shops basement car parking spaces.**

Comment

The further revised proposal includes an additional lift at the Shoalhaven Street frontage that will provide dedicated pedestrian access between the commercial parking basement levels to the Shoalhaven Street level (refer **Figure 9**). Access by this lift will be limited to between the Shoalhaven Street frontage and the lower basement commercial car park levels. No access will be provided from this lift to the residential apartments within Building A or the residential parking levels below.

As will be discussed further in Section 5.5 of this supplementary report Council's architectural and urban design consultant (BHI Architects) are of the view that the further revised proposal has achieved the JRPP objective with respect to this issue BHI conclude:

BHI is satisfied that the residential and commercial circulation has been separated, removing amenity and security concerns.

- 5. Provide details of hours of operation, availability of access for car parking.**

Comment

Section 3.2 of the revised Statement of Environmental Effects that support the revised proposal states:

- *Subject to the actual intended operating hours of the commercial complex, that 6 am to 11 pm will be common practice hours of operation of the car park.*
- *Access to the development will be secured by appropriate ticketing, swipe card, remotes, lift access panels (subject to specific technical requirements of each device and access asset).*
- *A surveillance system will be put in place in addition to building management to ensure safety and proper functioning of the complex and car park.*



Figure 9: Extract from Drawing A-106 showing location of pedestrian access lift at Shoalhaven Street frontage (courtesy ADM Architects).

The Applicant has further clarified that the commercial car parks will be closed outside operating hours by access panels. The Applicant advises that it is not proposed to install boom gates and / or impose fees for parking within the commercial car parking areas. After-hours access to the residential parking areas will be by way of swipe cards.

With respect to this issue BHI conclude:

BHI is satisfied that as long as the above controls are enforced, security concerns have been adequately addressed.

- 6. Identify locations for canopy planting in communal open space areas and update the landscape plan to reflect any changes.**

Comment

The landscaping plans in support of the further revised proposal have been amended to increase canopy plantings at both the podium and roof top communal open space areas. Planters are provided and sized (12 m³ to 31 m³) to enable the provision of small to slightly smaller than medium size trees.

With respect to this issue BHI conclude:

BHI is satisfied that sufficient additional canopy planting has been detailed on the Landscape Plans.

5.5 URBAN DESIGN ASSESSMENT

Point 2 of the JRPP's Record of Deferral required that:

2. *The amended plans be reviewed by Council's external architect and urban design consultants in respect of appropriateness of:*
 - *Architectural language*
 - *SEPP 65*
 - *Urban design outcomes*

As highlighted above in Section 5.4, as with the previous revised proposal, Council engaged the services of BHI Architects (BHI) to undertake a review of the plans of the further revised proposal and to prepare a report addressing their findings with respect to the above point 2 of the JRPP Record of Deferral. A copy of BHI's Architectural / Urban Design Review report forms **Annexure 3** to this supplementary assessment report.

BHI's findings and conclusions with respect to how the further revised proposal has addressed the requirements of the JRPP are detailed above in Section 5.4 of this supplementary assessment report. As detailed in Section 5.4 of this report BHI have generally found that the further revised proposal provides an improved urban design response in line with the JRPP's recommendations, subject to the imposition of conditions of consent to further improve the urban design outcomes.

BHI have also undertaken a review of the further revised proposal against relevant Design Criteria and Design Guidance contained within the Apartment Design Guide (ADG) to address the JRPP's recommendation as part of their design review with respect to SEPP 65. Only the aspects of the ADG that were deemed relevant to BHI's role in reviewing the architecture and the overall urban design outcome of the development were offered as guidance to the applicant, and subsequently reviewed in relation to the further revised proposal. According to BHI the further revised generally satisfies the urban design requirements of the ADG.

The Architecture / Urban Design Review prepared by BHI identifies several areas where the further revised proposal does not strictly comply with several design guidelines detailed in the ADG as follows (with BHI respective comments).

3E Deep Soil Zones

Objective 3E-1

Deep soil zones provide areas on the site that allow for and support healthy plant and tree growth. They improve residential amenity and promote management of water and air quality.

Design Criteria

Deep soil zones are to meet the following minimum requirements:

- Site area greater than 1500 m² (minimum dimensions 6 m and 7% site area).

Design Guidance

- Deep soil zones should be located to retain existing significant trees and to allow for the development of healthy root systems, providing anchorage and stability for mature trees.
- Achieving the design criteria may not be possible on some sites including where:
 - The location and building typology have limited or no space for deep soil at ground level (eg. central business district, constrained sites, high density areas, or in centres);
 - There is 100% site coverage or non-residential uses at ground floor level.
- Where a proposal does not achieve deep soil requirements, acceptable stormwater management should be achieved and alternative forms of planting such as on structure.

BHI Review

454m²/6% of deep soil zone has been nominated on the plans. BHI considers this provision to be satisfactory due to site constraints including the steep topography and a satisfactory provision of canopy trees, including retention of significant street trees to Akuna Street.

3H Vehicle Access

Objective 3H-1

Vehicle Access points are designed and located to achieve safety, minimise conflicts between pedestrians and vehicles and create high quality streetscapes.

Design guidance

- Garbage collection, loading and service areas are screened.

BHI comments:

Provide details of boundary screening to the loading area to the North of the site.

Screen the loading area from residential apartments overlooking it to reduce visual and acoustic impacts.

BHI Review

- *Planter boxes have been provided for a majority of windows, balconies and communal open space directly overlooking the loading bay, however some bedrooms are visually and acoustically exposed to the loading bay.*
- *BHI acknowledges that an acoustic report provides a management strategy to limit loading times and frequency, however this does not address visual screening.*

BHI recommends that a condition of consent be included requiring that additional visual/acoustic treatments are installed to all North facing bedrooms from Residential Level 1 to Residential Level 3. These could include a combination of the following: using double or acoustic glazing, acoustic louvres or enclosed balconies (winter gardens), solid balcony balustrades, external screens and soffits.

4C Ceiling Heights

Objective 4C-3

Ceiling heights contribute to the flexibility of building use of the life of the building.

Design Guidance

Ceiling heights of lower level apartments in centres should be greater than the minimum required by the design criteria allowing flexibility and conversion to non-residential uses."

BHI Review

Given the ongoing concerns regarding height exceedance on the site, and the lack of direct access to ground floor apartments from the street due to the steep site topography, BHI deems the current 2.7m ceiling height for habitable rooms to be satisfactory. There is also a significant quantum of commercial space provided throughout the development.

4M Facades

Objective 4M-1

Building facades provide visual interest along the street while respecting the character of the area.

Design Guidance

Building facades should be well resolved with an appropriate scale and proportion to the streetscape and human scale. Design solutions may include:

- well composed horizontal and vertical elements,
- variation in floor heights to enhance the human scale,
- elements that are proportional and arranged in patterns.

BHI Notes

Currently the residential building facades are largely horizontal in expression, without vertical elements to break up the scale of the building, resulting in a built form proportion which is not in human scale. Vertical elements should be introduced to break up the scale of the facade and give balance to the largely horizontal expression.

BHI Review

“Timber look” slatted aluminum screens add a finer scale vertical proportion to the facades. Vertical expression of the built form also breaks up the mass of the building. BHI is of the opinion that a greater quantity of screens are required to achieve the desired effect.

BHI recommends that a condition of consent be included requiring installation of at least 3 movable screens per primary balcony to buildings A, B & C.

In BHI's view the ADG provides a comprehensive document that successfully addresses the key architectural and urban design issues. In addition to the matters for consideration raised by the ADG however BHI identified a couple of minor urban design issues that also required to be addressed as follows:

BHI Notes

The amenity of the retail arcade would be greatly increased by integration of skylights within the loading zone above. It is recommended that a turning circle analysis is undertaken to determine where skylights could bring light into the arcade below.

BHI Review

Snorkel skylights have been proposed in the roof of the retail arcade to provide natural light.

BHI Notes

It is recommended that colour elevations, with greater detail, are provided along Akuna Street to emphasise the fulfilment of the requested design quality outcomes and to provide adequate detail for a complete assessment.

BHI Review

A greater level of detail is provided to elevations, as well as additional perspective views. Deemed adequate to assess the design.

The Architecture / Urban Design Review prepared by BHI concludes with respect to the further revised proposal:

BHI Architects has provided Architecture and Urban Design guidance to the applicant, including specific guidance regarding the recommendations of the JRPP.

We consider that the amended plans, labelled Issue Z, September 2018, presents an improved urban design response in line with the JRPP's recommendations, as well as the specific advice provided by BHI in relation to architecture, SEPP 65 and the overall design outcome.

Some aspects of the design are not strictly compliant with the recommendations of the JRPP or SEPP 65, however we believe that these departures are justified, or could be acceptable with specific conditions being addressed in the development consent. The following conditions of consent are recommended:

- *BHI recommends that a condition of consent be included requiring the further development of the walkway presentation to Akuna Street so as to read as a commercial element separate from the residential building, achieved through differential architectural detailing and materiality.*
- *BHI recommends that a condition of consent be included requiring planting to the Residential Parking Floor Plan (A-104) on the Western boundary, to the North of the raised planter box.*
- *BHI recommends that a condition of consent be included requiring installation of at least 3 movable screens per primary balcony to buildings A, B & C.*
- *BHI recommends that a condition of consent be included requiring that visual and acoustic treatments are installed to all North facing bedrooms from Residential Level 1 to Residential Level 3. These could include a combination of the following: using double or acoustic glazing, acoustic louvres or enclosed balconies (winter gardens), solid balcony balustrades, external screens and soffits.*

The above recommended conditions by BHI have been incorporated into the draft conditions of consent listed in **Annexure 5** to this supplementary assessment report.

5.6 CONSOLIDATED TRAFFIC ASSESSMENT

Point 3 of the JRPP Record of Deferral required that the supplementary submission include:

“... a consolidated traffic assessment that responds to the concerns raised by the community”

Annexure 4 is an engineering assessment prepared by Council of the further revised proposal which provides a consolidated traffic assessment of the proposal as well as addresses concerns raised by the community in terms of traffic impacts of the further revised proposal.

This following section of this supplementary assessment report provides a summary of the main findings of the consolidated traffic assessment included in **Annexure 4**.

The assessment undertaken by Council relies upon the NSW Roads and Maritime Services standards for assessing traffic impacts, and principally, the *RTA Guide to Traffic Generating Developments Version 2.2 October 2002* (the “Guide”).

5.6.1 Traffic Impacts

Local Road Network

According to Council’s consolidated traffic assessment, the Guide sets out the following peak hour vehicle trips and daily vehicle trips for the different uses within the development. The Guide provides rates for Thursdays and Fridays from 16:30 to 17:30 and Saturdays from 11:00 to 12:00. The largest rate provided (Saturday) has been shown in **Table 5**.

Table 5
Assessment of Average Daily Vehicle Trips and Total Peak Hour Trips

<i>Use</i>	<i>Quantity</i>	<i>Average Daily Vehicle Trips (DVT)</i>	<i>Total DVT</i>	<i>Peak Hour Vehicle Trips (PHVT)</i>	<i>Total PHVT</i>
Unit	96	5	480	0.65 trips / dwelling	63
Retail	2568 m ² Gross Leasable Floor Area * (GLFA)	121 trips / 100 m ² GLFA	3108	16.3 trips/ 100 m ² GLFA	419
Office	245m ²	10 trips / 100 m ² GLFA	25	2 trips / 100 m ² GLFA	5
TOTAL			3613		487

Gross Leasable Floor Area (GLFA) is defined in the Guide as the sum of the area of each floor of a building where the area of each floor is taken to be the area within the internal faces of the walls, excluding stairs amenities, lifts, corridors and other public areas but including stock storage areas.

In order to assess the impacts of the traffic generated by the proposal within the existing road network the Applicant submitted a Traffic Impact Assessment (TIA) prepared by Jones Nicholson (consulting engineers). The TIA calculated the maximum peak hour vehicle trips to be 754, which is 267 trips greater than Council’s assessment as shown in

Table 5 above. This was due to the Jones Nicholson utilising “Gross Floor Area (GFA)” instead of GLFA. GFAs includes common areas.

The TIA provided traffic counts (collected through the installation of traffic tubes) at key locations within Kiama for the period of 13 April 2017 to 27 April 2017. From this data Jones Nicholson undertook traffic modelling using the SIDRA traffic analysis program. SIDRA determines traffic impacts through assessing vehicle delay at an intersection. It classifies the delays as per **Table 6**.

Table 6
Level of Service Classifications

<i>Level of Service</i>	<i>Delay (seconds)</i>	<i>Classification</i>
A	0 to 14.5	Good
B	14.5 to 28.5	Good with minimal delay and spare capacity
C	28.5 to 42.5	Satisfactory with spare capacity
D	42.5 to 55	Satisfactory but operating at capacity
E	55 to 70.5	At capacity and incidents will cause excessive delay
F	Greater than 70.5	Unsatisfactory and requires additional capacity

The SIDRA analysis demonstrates that the level of service at key intersections would be no worse than a ‘B’ level of service in both the AM and PM peak periods. **Table 7** and **Table 8** indicate the resulting levels of service post development for the A.M and P.M. peak periods.

Table 7
SIDRA analysis for the A.M. Peak Period

<i>Intersection</i>	<i>Movement</i>	<i>Level of Service</i>
Collins Street and Terralong Street	Collins Street South left turn	A
	Collins Street South straight	A
	Collins Street South right turn	B
	Terralong Street East left turn	A
	Terralong Street East straight	A
	Terralong Street East right turn	B
	Collins Street North left turn	B
	Collins Street North straight	B
	Collins Street North right turn	B
	Terralong Street West left turn	A
	Terralong Street West straight	B
	Terralong Street West right turn	A
Collins Street and Akuna Street	All vehicle movements	A

Table 7 (continued)

<i>Intersection</i>	<i>Movement</i>	<i>Level of Service</i>
Collins Street and Bong Bong Street	All vehicle movements	A
Akuna Street and Shoalhaven Street	All vehicle movements	A
Bong Bong Street and Shoalhaven Street	Bong Bong Street (all) Shoalhaven Street (all)	A B
Terralong Street and Shoalhaven Street	Shoalhaven Street (all)	B
	Terralong Street East left turn	A
	Terralong Street East straight	B
	Terralong Street East right turn	A
	Terralong Street West left turn	B
	Terralong Street West straight	A
	Terralong Street West right turn	B
Manning Street and Bong Bong Street	All vehicle movements	A

Table 8

SIDRA analysis for the P.M. Peak Period

<i>Intersection</i>	<i>Movement</i>	<i>Level of Service</i>
Collins Street and Terralong Street	Collins Street South (all)	B
	Terralong Street East left turn	A
	Terralong Street East straight	A
	Terralong Street East right turn	B
	Collins Street North (all)	B
	Terralong Street West left turn	A
	Terralong Street West straight	B
	Terralong Street West right turn	A
Collins Street and Akuna Street	All vehicle movements	A
Collins Street and Bong Bong Street	All vehicle movements	A
Akuna Street and Shoalhaven Street	All vehicle movements	A
Bong Bong Street and Shoalhaven Street	All vehicle movements	A
Terralong Street and Shoalhaven Street	Shoalhaven Street (all)	B
	Terralong Street East left turn	A
	Terralong Street East straight	B
	Terralong Street East right turn	A
	Shoalhaven Street North(all)	A
	Terralong Street West left turn	B

Table 8 (continued)

<i>Intersection</i>	<i>Movement</i>	<i>Level of Service</i>
	Terralong Street West straight	A
	Terralong Street West right turn	B
Manning Street and Bong Bong Street	All vehicle movements	A

In order to confirm the accuracy of the advice in the TIA, Council commissioned an independent peer review of the TIA by Traffic Impact Services. The peer review confirmed that:

- a. *The traffic counts provided in the report represented a suitable base for comparing with future development traffic;*
- b. *The levels of service provided by the SIDRA modelling is considered to be a reasonable assessment;*
- c. *Any change in level of service from 'A' to "B" does not warrant the need to undertake further action;*
- d. *The main area to be impacted is in Shoalhaven Street. The following requirements have been recommended to better manage traffic flow.*
 - i. *Central medians in Shoalhaven Street at Bong Bong Street are to be provide for a dual "Stop" signage on each approach;*
 - ii. *Blisters on the road at the carpark egress are to be provided to gain improved sight distances;*
 - iii. *Road widening of Shoalhaven Street on the approach to Terralong Street to provide for a short section of two lanes is required;*
 - iv. *"No right turn" sign for articulated vehicles from Terralong Street into Shoalhaven Street is required;*

Conditions of consent have been included in the draft conditions of consent included in **Annexure 5** which address these issues.

The Further Revised Proposal

According to Council's consolidated traffic assessment the recommendations detailed immediately above will ameliorate adverse impacts caused by increased traffic within the local road network.

In order to ensure that the parking facilities within the commercial car parking area do not become gridlocked and queuing does not result within the adjoining road network the Council's consolidated traffic assessment recommends that the following consent conditions be included if the development is approved:

1. *Boom gates are prohibited from being installed.*

2. *An electronic car parking management system shall be installed. The system shall include ultrasonic detectors and electronic message board located on each level and external to the building, which informs customers of the available spaces remaining.*

Conditions of consent have been incorporated into the draft conditions of consent included in **Annexure 5** of this supplementary assessment report.

Assessment of traffic generation

The main road system through Kiama (Terralong and Manning Street) was previously part of the national highway system before the town was bypassed; however, since the bypass was opened traffic calming, pedestrian crossings and round-a-bouts have been constructed which have the potential to change traffic flow.

The traffic counts provided in the TIA for Terralong Street from Collins Street to Shoalhaven Street indicates the average daily traffic (both directions combined) was 9130 vehicles. This reasonably compares to Council's traffic counts in Terralong Street undertaken in February 2017 which indicated average daily traffic (east bound and westbound combined) was 8076 vehicles.

Table 5 indicates that the likely traffic generated by the development on its busiest day will be up to approximately 3600 daily vehicle trips. The site currently contains a car park that services the existing commercial areas from Thomson Street to Railway Street. The Guide indicates that based on the commercial areas in this precinct, this existing carpark would likely generate up to 800 vehicle trips per day. Therefore, the approximate increase in the number of daily vehicle trips generated by the development will be 2800. This would represent an increase of around 30% on current levels. A further factor that needs to be taken into consideration is that shoppers already in town using the existing shopping centre (at the intersection of Thomson Street and Terralong Street) need to be excluded, so, according to Council's consolidated traffic assessment, this increase in traffic would likely be lower if more detailed widespread studies were undertaken.

From a traffic viewpoint, the proposal is considered suitable for the site; however, as demonstrated in the traffic modelling provided by the applicant, there will be changes in the existing traffic flow once the development is operational.

5.6.2 Access

The proposal will require the excavation and reconstruction of the unnamed Laneway (6.095m wide) which dissects the proposal. This work can be approved through Section 138 of the Roads Act 1993. Prior to issue of any Construction Certificate a legal arrangement will need to be agreed to by Council for the use of the land above/below the

unnamed Laneway (pursuant to the requirements of Section 149 of the Roads Act 1993). A licence agreement will also need to be made for the proposed awnings (overhanging the road reserve) prior to occupation. Conditions of consent have been incorporated into the draft consent conditions listed in **Annexure 5** addressing this aspect.

The existing right of way (Lot 51 in DP1200006) is proposed to be used for garbage trucks, commercial vehicles and supermarket delivery trucks to depart from the site into Collins Street. The supermarket articulated delivery vehicle (AV) is the largest vehicle that needs to be catered for in the laneway. The AV's width is 2.5 m (see fig 2.1 of Australian Standard AS2890.2). Collapsible mirrors may protrude up to 0.23 metres (Section 2.2 of Australian Standard AS2890.2). This would make a total width of 2.96m. Besides turning in and out of the delivery driveway, the route is best defined as "one-way straight run". Deferring to AS2890.2 - Table 3.1 – Design Vehicle AV – Curve Radius greater than 800 (incl. straight) – Single lane – the width required is 3.5 m. Of note, the minimum requirement for all vehicles in the table (SRV, MRV, HRV) is 3.5 m. The clear width in the right of way adjoining the development is 3.05 metres wide. Table 3.1 of AS2890.2 recommends a 3.5 m wide laneway, however, as previously outlined in the TIA prepared by Jones Nicholson, clause 3.3.1 of AS2890.2, states:

"A guide to the minimum width between kerbs or edges of pavement for circulation roadways is given in Table 3.1. Regardless of the dimensions given in the Table, circulation roadways shall be designed to accommodate the swept path of the largest design vehicle using the facility plus the specified clearances from the vehicle body to vertical obstructions and vehicle to vehicle on two-way roadways as set out in Clause 5.4."

Council's interpretation is that 3.5 m is the recommended minimum and that swept paths are to be utilised where they exceed the minimum. Jones Nicholson's interpretation is that the 3.5 m is a guide and that swept paths can be used to design to the absolute minimum. In this instance there will only be 45 mm clearance each side of the vehicle's mirrors.

The Applicant has indicated that he has negotiated a 300 mm right of way over Lot 4 DP555589, No. 106 Terralongo Street that if dedicated would provide additional width to the existing laneway and therefore provide a clearance of 195 mm outside of each wing mirror. An ideal situation would be to have a least a clear 3.5 metre width; however, given that only one side of Lot 51 is obstructed by a wall (constructed for No. 64 Collins Street / Lot C in DP 160615) Council's consolidated traffic assessment confirms that a 3.35 metre wide access way could be supported on the condition that the right of way is created to the benefit of Council. In this regard, as the creation of the easement involves a third party, it is recommended that a condition requiring the creation of this right of carriageway comprise a deferred commencement requirement pursuant to Section 4.6(3) of the

Environmental Planning & Assessment Act. That is the creation of this right of way and easement will be required before an operational consent will be able to be issued.

The TIA has provided turning manoeuvres for the articulated delivery vehicles which will deliver goods to the proposed supermarket. A right turn from Terralong Street into Shoalhaven Street is proposed to be prohibited due to the turning path conflicting with paths of oncoming traffic. The route of the delivery vehicle will be along Terralong Street, turning right into Railway Parade, then turning right into Bong Bong Street, then turning right into Shoalhaven Street and then turning left into the development. All turning movements have been reviewed for compliance with Australian Standards and are considered satisfactory. After deliveries have been undertaken in the loading bay of the development the path of travel will be a right turn into Collins Street and then a left turn into Terralong Street. Again, turning movements have been reviewed for compliance with Australian Standards and are considered satisfactory

5.6.3 Parking

An assessment of the proposed developments parking provisions against the requirements detailed in Council's Chapter 9 of the Kiama Development Control Plan 2012 is detailed in Section 5.3.1.2 of this supplementary assessment report. As detailed in Section 5.3.1.2 the development is able to satisfy Council's parking requirements for a proposal of this scale and nature.

The car parking for the residential component of the development accesses from Akuna Street via an existing public laneway. The car parking for the commercial component of the development accesses from Shoalhaven Street. The residential component provides 134 car parking spaces. The commercial component provides 212 car parking spaces.

According to Council's consolidated traffic assessment the dimensions of the parking spaces and manoeuvring shown on the plans provided comply with the following Australian Standards:

- AS 2890.1 - 2004 Off-street car parking;
- AS 2890.2 - 2002 Off-street commercial vehicle facilities;
- AS 2890.3 - 2015 Bicycle Parking; and
- AS 2890.6 - 2009 Off-street parking for people with disabilities.

5.6.4 Public Concerns

The following **Table 9** details issues of concern relating to traffic raised by the community and Council's consolidated traffic assessment responses to these concerns.

Table 9
Council Traffic Assessment Responses Public Concerns

<i>Public Issue</i>	<i>Council Traffic Assessment Response</i>
<p><i>Construction Impacts</i></p> <ul style="list-style-type: none"> <i>Heavy vehicle movements will impact on local traffic network and safety.</i> <i>Noise</i> <i>Dust</i> <i>Fumes</i> 	<p>The developer will be required (through consent conditions) to provide a Construction Environmental Management Plan which takes into account all construction impacts.</p> <p>The developer will be required to comply with the <i>Protection of the Environment Operations Act 1997</i> in regard to managing offensive noise, dust and fumes.</p> <p>Heavy vehicle traffic routes will need approval from the Roads Authority before use. The Roads Authority will take into consideration impacts in the public domain prior to any Road Occupancy Approval (issued pursuant to Section 138 of the <i>Roads Act 1993</i>).</p>
<p><i>Construction Impacts</i></p> <ul style="list-style-type: none"> <i>Excavation will impact on structural integrity of adjoining buildings</i> 	<p>The developer has a responsibility to adjoining land holders to ensure that buildings on adjoining lands remain unaffected by their developments</p>
<p><i>Construction Impacts</i></p> <ul style="list-style-type: none"> <i>How will access be provided to residents and shop keepers to laneway while development under construction.</i> <i>Inadequate provision for pedestrian movements along Shoalhaven Street and through to Terralong Street (particularly access to Edessa Arcade).</i> 	<p>The laneway is proposed to be closed off during the construction period only.</p> <p>Alternative access is provided in the existing road network which has been provided with paved pathways.</p>
<p><i>Traffic Impacts</i></p> <ul style="list-style-type: none"> <i>Traffic congestion within local road network.</i> 	<p>The traffic impact assessment undertaken indicates that the traffic generated by the development will result in an average increased delay of no more than 14 seconds at some intersections within the surrounding road network. There will be a 30% increase in daily traffic. The road system is considered capable of providing for the increased traffic associated with the development.</p>
<p><i>Traffic Impacts</i></p> <ul style="list-style-type: none"> <i>Akuna Street very narrow to accommodate additional traffic. Increase in traffic by residents and shoppers along Akuna Street.</i> <i>Proposal will increase traffic movements along Akuna and Collins Street. Resulting in traffic conflicts with buses (particularly school busses) that presently travel along Akuna Street. Busses already experience difficulties along Akuna Street due to its narrowness and parking of cars along north side of this road.</i> 	<p>All commercial parking is accessed via Shoalhaven Street.</p> <p>The current use of the site as a carpark accommodates 79 vehicles and accesses Akuna Street. The carpark services the shops in the Kiama township.</p> <p>Using the assessment for the proposal as guide, the 79 spaces currently create up to 800 daily vehicle trips. The residential carpark is proposed to access Akuna Street and the figures in Table 5 indicate 480 daily vehicle trips will be created.</p> <p>The perceived narrowness and parking of cars has been pointed out by the objectors and this would likely result in Akuna Street not being used as shortcut by a large number of shoppers due to speed limitations.</p>

Table 9 (continued)

Public Issue	Council Traffic Assessment Response
	<p>Council is unaware of issues with busses in Akuna Street.</p> <p>It is considered that there is likely to be less traffic in Akuna Street as a result of the proposal.</p>
<p><i>Traffic Impacts</i></p> <ul style="list-style-type: none"> <i>Proposal will result in increased traffic movement along Collins and Akuna Streets due prohibition on right turn movements from Terralong into Shoalhaven Street.</i> 	<p>Only articulated vehicles are proposed from being prohibited from making this turn.</p>
<p><i>Traffic Impacts</i></p> <ul style="list-style-type: none"> <i>Heavy vehicles turning into Collins Street will create traffic hazard for vehicles travelling along Collins Street.</i> 	<p>Vehicles exiting the access driveway from the development and making a right-hand turn will have to do so carefully, just as they would at any intersection. There are no impediments to safe sight distance, which would prevent drivers from doing this. There are likely to be only a limited number of heavy vehicle movements per day.</p>
<p><i>Traffic Impacts</i></p> <ul style="list-style-type: none"> <i>Trucks should be prevented from entering Akuna Street from Collins Street.</i> <i>Truck movements travelling along Collins Street will experience difficulties due to steepness and create concerns due to presence of school.</i> 	<p>During operation of the development, there will be no need for trucks to enter Akuna Street or drive up Collins Street.</p> <p>Also, of note is that there is a 5-tonne load limit on Collins Street south of Akuna Street. This will remain unchanged and not impact the school.</p>
<p><i>Noise Impacts</i></p> <ul style="list-style-type: none"> <i>Collins Street exit also adjacent to day care centre. Noise from heavy vehicles will disturb young children at day care centre.</i> 	<p>The delivery driveway adjacent to the childcare centre is at a flat grade and narrow. It currently serves an existing shopping centre. It is unlikely heavy vehicles will be travelling at excessive speeds, changing gears or using their brakes, which are all activities which can cause offensive noise</p>
<p><i>Parking</i></p> <ul style="list-style-type: none"> <i>Not enough parking provided by development.</i> 	<p>The parking meets Council's adopted development controls.</p>
<p><i>Parking</i></p> <ul style="list-style-type: none"> <i>Loss of existing public parking on-site (about 100 spaces) and loss of street parking in Shoalhaven and Akuna Streets. There is no plan to replace these spaces. This will lead to additional pressures for parking in town centre</i> <i>Access for residents and shop keepers to parking spaces in CBD during construction will be lost due to work vehicles and construction vehicles.</i> <i>Impacts to shop keepers and tourists during construction.</i> 	<p>This is a commercial decision by the current landholder to change the use of the site. The objection is not considered relevant to the assessment.</p> <p>A public parking lot with 52 spaces on the southern side of Akuna Street will remain available. Aerial photographs taken in 2011, 2012, 2013 and 2016 indicates an average 10% occupancy.</p>

Table 9 (continued)

Public Issue	Council Traffic Assessment Response
<i>Parking</i> <ul style="list-style-type: none"> <i>Parking controls will lead to parking fees.</i> 	This will be a commercial decision by the future owner/operator. It is not relevant to the application.
<i>Parking</i> <ul style="list-style-type: none"> <i>Parking controls will lead to traffic conflicts in Shoalhaven Street which will require left turn lane into development. This will further result in loss of street parking.</i> 	There is no intention or requirement that a turning lane into the development is required at this time
<i>Parking</i> <ul style="list-style-type: none"> <i>Traffic congestion and loss of parking along Shoalhaven Street would have adverse impact on Inn business.</i> 	The current proposal indicates that there will be no loss of on-street parking

5.7 SUBMISSIONS

5.7.1 Public Submissions

The previous revised proposal, the subject of the Assessment Report included as **Annexure 1** to this supplementary assessment report, was placed on public exhibition between (19th February to 5th March 2018). This period was extended until the 9th March 2018 following problems with Council's DA Tracker which prevented the public from accessing documents on the system. A total of seventy-eight (78) submissions were made following this previous public exhibition process, all objecting to the revised proposal.

Included within these submissions, were submissions made by or on behalf of:

- The Kiama Central Precinct;
- The Kiama Historical Society.

The issues raised by these subsequent public submissions in relation to the development application were addressed in the Assessment Report included as **Annexure 1** to this submission.

The documentation in support of the further revised proposal were placed on public exhibition from 19th September 2018 to 3rd October 2018. A total of eighteen (18) public submissions have been made all objecting or raising concerns with respect to the further revised proposal. These submissions included a submission from the Kiama Central Precinct. It should be noted that the issues raised by the public submissions following this most recent public exhibition raise in the majority of cases similar issues to those raised by submissions from earlier public exhibitions of the previous iterations of this project.

The following is a summary of the main issues arising from the most recent public notification period and responses to these issues as they relate to the further revise proposal.

1. The Building

- a. The development is a significant overdevelopment of the site and too dominant.
- b. The proposal will loom over Terralong Street shopping street and Hindmarsh Park resulting in a loss of character of the township and detracting from the heritage qualities of Hindmarsh Park.
- c. Any new development should reinforce the character of the site and be sensitive to significant elements with regard to scale, density, form and siting, including consideration of significant view corridors and spatial relationship consistent with the surrounding neighbourhood. The revised proposal does not achieve these goals but will impose a monolithic set of buildings that will dominate the CBD. The design makes no concession to local character.
- d. The proposal does not comply with many of the requirements of the Apartment Design Guide, Kiama Local Environmental Plan and Kiama Development Control Plan.
 - i. The revised development still exceeds the maximum building height limit of 11 metres and FSR requirements that applies to the site and does not provide active street frontage to Akuna Street as required under the Kiama LEP 2014. Due to its height and scale the building will dominate and overshadow surrounding areas.
 - ii. The revised development will provide a low level of amenity for future residents of the development in terms of; solar and light access; lack of private open space; inadequate deep soil zones; inadequate ceiling heights; lack of drying areas; no alternative energy or heating sources; and compromised privacy for future residents.
 - iii. The revised development does not provide a suitable mix of housing types being predominantly 1 and 2-bedroom apartments. The proposal does not provide a sufficient number of 3 or 4-bedroom dwellings at an affordable price. Concerns that the majority of these smaller apartments will be used for short term holiday accommodation at the expense of provide opportunities for affordable housing.

- e. The façade of the development is not integrated with the surrounding streetscapes and presents a modern contemporary appearance and will not be sympathetic with Kiama heritage townscape, historic buildings and streetscape character. The appearance of the development should recognise the predominate scale (height, bulk, density, grain) of existing development and respond sympathetically in its design.
- f. The proposal will represent the largest development within the Kiama CBD, however will be predominantly residential rather than commercial and retail use. Greater focus should be placed on commercial / retail use consistent with B2 zoning which focusses on business, retail, community and entertainment uses. Community were under expectation that the development would include supermarket and only 30 apartments.
- g. Significant retail developments should be sited on outskirts of CBD where there is good traffic access not in the centre of existing town centres.
- h. A development of such scale that does not comply with a range of development controls will set an undesirable precedent for future development.

Comment

- Issues pertaining to non-compliance with the statutory building height, FSR and active street frontage requirements of the Kiama LEP 2011 were discussed in Section 5.1.10.3 of the original Assessment Report included in **Annexure 1** to this supplementary assessment report. Further discussion in relation to the building height and floor space ratio of revised Building D & E is detailed in Sections 5.1.2. and 5.5 of this supplementary assessment report.
- Issues pertaining to the design, external materials and colours, bulk and scale of the overall development were addressed in Sections 5.1.10.3, 5.6.1 and 5.6.2 of the original Assessment Report (**Annexure 1**). Further discussion in relation to the building height and urban design issues associated with revised Building D & E are detailed in Sections 5.1.2 and 5.5 of this supplementary assessment report.
- The breach of the building height limit for Building D & E have been discussed in Section 5.2.1 of this report with respect to the Kiama LEP 2011. As discussed, the extent to which the revised proposal departs this requirement is considered reasonable.

- Issues pertaining to compliance with the Apartment Design Guide, Kiama LEP 2011 and the Kiama DCP are discussed in Sections 5.1.10.3 and 5.6.1 of the original Assessment Report (**Annexure 1**). Furthermore Section 5.3.1 and 5.5 of this supplementary assessment report further addresses these provisions as they relate to the further revised proposal. As discussed, the extent to which the revised proposal departs these requirements is considered justified.
- Tree removal is discussed in Section 5.6.5.1 of the original Assessment Report (**Annexure 1**). Consistent with the JRPP's previous deferral of the original application, the revised proposal has been amended and proposes the retention of 12 significant trees along the Akuna Street frontage of the site.
- Issues pertaining to private open space and solar access are discussed in Sections 5.6.4.3 and 5.6.1 of the original Assessment Report. The further revised proposal with the deletion of level 4 from Building D & E and the incorporation of a roof top communal open space on this building; as well as roof top communal open space courtyards on Buildings A, B and C will ensure that the overall development now exceeds the communal open space required of the ADG.
- The mixture of commercial / retail and residential development is discussed in Section 5.6.8 of the original Assessment Report (**Annexure 1**). The further revised proposal has reduced the number of residential apartments by four units.

2. Traffic and Car Parking

- a. The Proposal does not provide sufficient off-street car parking. Kiama already has limited off-street car parking.
- b. The subject land in part is already used for public car parking which will be lost, and on-street parking will also be lost. There is no plan to replace these lost public parking spaces. The Proposal does not replace these parking spaces. The proposal will significantly reduce parking in the town.
- c. The development will lead to parking fees in the CBD.
- d. Proposed parking controls within the development will lead to traffic congestion and conflicts in Shoalhaven Street, which may require turning lane that will result in loss of on-street parking along Shoalhaven Street.

e. Traffic Management:

- i. The local street network will be unable to accommodate the additional traffic generated by this development.
 - ii. The traffic study that supports the application was undertaken during holiday periods and therefore did not take into consideration traffic associated with Kiama Primary School.
 - iii. With majority of trips entering and exiting into Shoalhaven Street, it may be necessary for a dedicated left-hand lane heading north and dedicated right hand lane south at the entrance to the car park. This would result in loss of further street parking.
 - iv. The proposed “No Right Turn” preventing vehicles entering Shoalhaven Street from Terralong Street will result in vehicles from the north and west using Collin and Akuna Streets. Akuna Street is too narrow for service delivery vehicles.
 - v. Service vehicle egress to Collins Street will be difficult which is steep, and located within vicinity of a primary school.
- f. Lack of pedestrian footpath in Akuna Street will raise concerns as this road is used by school children and parents.
- g. Trolleys from supermarket will be not be returned and will be left in streets clogging up pedestrian pathways.

Comment

- On-site car parking is discussed in in Section 5.3.1.2 in relation to Chapter 9 DCP 2012 Car Parking Requirements. As detailed the further revised proposal provides sufficient off-street car parking that complies with Council's requirements for a development of this scale and nature.
- The issue pertaining to the existing use of part of the site for public parking and the loss of this parking as a result of this development is addressed in Section 5.6.5.3 of the original Assessment Report (**Annexure 1**).

It is noted that the JRPP Record of Deferral noted the general concern expressed in written and verbal submissions about traffic and parking access and recommended that the Council undertake a strategic consideration of traffic management and parking access across the CBD in the future.

Council advises that traffic management and parking across the CBD will be considered through the Kiama Town Centre Study and Local Strategic Planning Statement processes which have both commenced.

- Council has prepared a consolidated traffic assessment (**Annexure 4**) addressing the further revised proposal which consolidates the findings of the original traffic assessment compiled by the Applicant's traffic consultant Jones Nicholson; Council's independent traffic consultant peer review of this traffic assessment undertaken by Traffic Impact Services; as well as Council's own assessment of these assessments. The consolidated traffic assessment includes responses to the issues raised by the community in terms of traffic impacts (Section 5.6.4 of this supplementary assessment report). It is considered that the further revised proposal will likely have acceptable traffic impacts to the local road network, and Council's consolidated traffic assessment recommends the imposition of conditions relating to the implementation of traffic management measures within the local road networks.
- There is no proposal to instigate parking fees within the development.
- The only parking control to the vehicle ingress and egress to Shoalhaven Street will be a barrier door to close the car park after hours. This will not lead to traffic congestion from vehicles being restricted from entering the site from Shoalhaven Street; and will not result in any works along Shoalhaven Street that will reduce on-street parking along Shoalhaven Street. There is no proposal to reduce on-street parking along Shoalhaven Street under this proposal. Council's consolidated traffic assessment also includes recommendations for conditions to further ensure that commercial parking areas within the development do not become gridlocked and that queuing does not occur within the surrounding road network. These recommended conditions are included in the draft conditions included in **Annexure 5** to this supplementary report.

3. *Environmental Issues*

- a. The development will result in the loss of 73% of trees on site. Loss of flora and fauna habitat.
- b. The steeply constrained nature of the site is unsuitable for development.
- c. The development does not provide satisfactory deep soil zones.

Comment

- Tree removal is discussed in Section 5.6.6.1 of the original Assessment report (**Annexure 1**). Consistent with the Panel's deferral of the original application, the revised proposal has been amended and now proposes the retention of 12 significant trees along the Akuna Street frontage of the site. Given the urban context of the site, it is not considered the trees and vegetation on the site have significant habitat qualities worth preserving.
- Whilst the site does contain topographical challenges, these challenges do not prevent the development of the site. The application is supported by a geotechnical assessment that confirms the development of the site is suitable subject to conditions.

4. Heritage

- a. The site is within the vicinity of a number of heritage items, however the application is not supported by a Statement of Heritage Impact.
- b. It is important that heritage be conserved and protected from inappropriate architecture within the vicinity. The development should be designed with heritage context taken into account. The development however is modern contemporary in appearance which does not take into consideration the heritage context.

Comment

- Heritage issues are discussed in Section 5.6.3 of the original Assessment Report (**Annexure 1**). Council's Heritage Adviser has reviewed the further revised proposal and finds it acceptable (refer Section 5.7.3 of this supplementary assessment report).

5. Construction Issues

- Demolition and construction works may potentially adversely impact on trade for commercial tenants and amenity of residential tenants (noise, dust, vibration and restriction on pedestrian movements along Terralong Street).
- Concern that demolition and construction works may have detrimental impact on structural integrity of existing buildings. Need structural survey of adjacent buildings prior to commencement of works and monitored throughout works.
- Construction traffic management difficulties, such as those associated with the "Bathers" development along Manning Street. Akuna Street is narrow with

residential and commercial. Uses that will require to retain access. Loss of street parking caused by work vehicles and construction equipment.

- Concern as to how access to residents and shop owners who use laneway to rear of Terralong Street will be able to retain their access during construction process.
- Cumulative construction traffic impacts with other projects being developed in the town centre at the same time. Loss of parking spaces generally in CBD due to spaces being taken by construction works and vehicles. Impacts will be exacerbated by extend construction period.

Comment

- As detailed in the original Assessment Report, the development application is supported by geotechnical assessments carried out by SMEC which makes recommendations in relation to construction works and protecting the structural integrity of surrounding works and buildings. These recommendations have been incorporated into the draft condition of consent included in **Annexure 5** of this supplementary assessment report.
- Conditions requiring the preparation of revised Construction Environmental Management Plan as well as a Dilapidation Reports be prepared and submitted before the issue of a Construction Certificate can be imposed if consent is to be granted to the proposal and are included in the draft conditions of consent in **Annexure 5**.

6. Waste Management

- a. There is unsatisfactory waste storage and disposal plans. Insufficient waste storage provision for residential units.

Comment

- The development application has been reviewed by Council's Waste Management Officer, who does not raise objection in relation to the proposed measures for on-site waste management and includes recommended conditions that have been included in the recommended conditions of consent included in **Annexure 5**.

7. Amenity Impacts

- a. Loss of water views from residents in Akuna Street.

- b. Loss of privacy – south facing units will overlook dwellings in Akuna Street.
- c. Concerns raised by owners of the Kiama Inn which has extended licence hours and is a valued local music venue. Any future residential development needs to take into consideration noise generated from the Inn. Measures should be put in place to ensure future residents of the development are not impacted from noise generated from Inn activities.
- d. Need for greater open space.

Comment

- The potential impacts that the development will have on views enjoyed by residents of Akuna Street is addressed in Section 5.6.4.4 of the original Assessment Report (**Annexure 1**).
- The issue of privacy impacts associated with this development is addressed in Section 5.6.4.3 of the original Assessment Report (**Annexure 1**). It is my view that the impact of the development on the privacy of existing residential properties in Akuna Street is reasonable.
- The issue of ensuring activities from the Kiama Inn do not raise conflicts with future residents of the development was addressed in Section 5.6.4.2 of the original Assessment Report (**Annexure 1**). The Applicant's acoustic assessment included recommendations for window treatments for all eastern and northern windows of Building A facing the Kiama Inn. These recommendations have been incorporated into the draft conditions of consent included in **Annexure 5** to this supplementary report.
- With the deletion of level 4 from Building D & E and the location of communal open space on the roof top of this building; the provision of small communal open space courtyards on each of Buildings A, B and C; in conjunction with communal open space area at the residential level 1 between buildings A and B, and between B and C and along the northern side of Buildings D & E; the further revised development now satisfies the communal open space requirements of the NSW ADG.

5.7.2 External Referrals

Roads & Maritime Services

The further revised proposal was referred to the RMS. The RMS note that the development is located on and accessed via the local road network, with minimal

immediate impacts to the State Road network. Given these circumstances, the RMS advised that they do not object to the development application in principle.

5.7.3 Internal Referrals

- Development Assessment Officer – Building

No objection has been raised to the proposed development. Conditions of development consent have been recommended should the application be approved.

- Subdivision & Development Engineer

Refer to the consolidated engineering assessment included in **Annexure 4** to this supplementary assessment report. In summary these comments in effect conclude:

- The local road network will be able to accommodate traffic generated by the development.
- On-site parking has been designed in compliance with relevant Australian Standards.
- The proposed access for service vehicles from the development is considered supportable subject to the provision of an easement for access along Lot 4 DP 555589, 106 Terralong Street to enable the widening of the driveway.
- Stormwater management plans prepared in support of the application are supported by Council. Conditions are included in the draft conditions of consent (**Annexure 5**) with respect to stormwater management.

- Landscape Design Officer

The Landscape Design Officer has reviewed the further revised proposal and makes the following comment:

I have reviewed the landscape plans and note that the tree canopy areas have been increased by adding additional trees to the podium levels and the new communal open space on level 4. Additional seating and meeting areas have been provided. The level 4 communal open space has tree canopy cover and a shade structure, bbq areas and includes a children's playground among other amenities. This satisfies JRPP comments as detailed in item (vi) and section 3D communal open space (Akuna Street Urban Design Review 18/05/2018 doc. 18/39751)

The proposal in its current form is satisfactory. I recommended that the following conditions of consent be included on the development consent, if approval is granted

Conditions of development consent have been recommended should the application be approved, and these are included in the draft conditions of consent included in **Annexure 5** of this supplementary assessment report.

- Environmental Health Officer (EHO)

According to Council's EHO the deletion of the Level 4 from Building D & E and the placement of a roof-top communal open space area on top of this building has the potential if not constructed and/or properly managed to create offensive noise that could affect the occupants in the units located below or adjacent to this area. The improper use of this area could have an adverse impact on other occupants and users located in the Kiama Central Business area.

According to Council's EHO the usage of this area can be controlled by the development, implementation and enforcement of conditions contained in a Management Plan for the use of this area. This plan could include conditions but not limited to hours of operation, maximum number of occupants permitted in the area, types of functions permitted, limitations relating to the consumption of alcohol and the management of waste.

The preparation and submission to Council of a Management Plan for use of the rooftop communal area is proposed as a condition of consent. The submission of this Management Plan to Council will be required prior to issue of the Occupation Certificate.

The units directly below the rooftop communal open space area will be adversely affected by impact noise and other noise from the use of this communal area if no acoustic treatment is installed between the ceiling and roof floor slab. Noise from the use of this area could directly affect other units as well.

According to Council's EHO a condition of consent could address this issue by requiring the preparation and submission of an acoustic and design assessment for any affected units from noise generated from the use of the rooftop communal area. A compliance certificate from the acoustic engineer for any specific design requirements will be required to be submitted prior to the issuing of the occupation certificate.

No objection has been raised to the further revised proposal and conditions of consent have been recommended should the application be approved.

- Heritage Adviser

Council's Heritage Advisor has reviewed the further revised proposal and makes the following comments:

*Further to my site visit of 9 January 2017 and advice of 9 January 2017,
21 August 2017, 6 March 2018, 18 March 2018 and 28 September 2018,*

I have reviewed the amended DA documentation forwarded. To follow is supplementary advice from a heritage point of view:

HERITAGE SIGNIFICANCE:-

- 1) *The subject site is located in the vicinity of heritage items listed in Schedule 5 of Kiama LEP 2012.*
 - 1a) *Two items have the potential to have their setting adversely impacted by the proposed development: Item No 154 former Tory's Hotel 50 Terralong Street and Item No 156 former Devonshire House 58 – 64 Terralong Street.*
 - 1b) *Three properties in Bong Bong Street which form part of a group listing – Item No 87, 53-57 Bong Bong Street may potentially have views impacted by the proposed development.*
- 2) *There are buildings proposed to be demolished as part of the DA submission including 100 Terralong Street - a Post War commercial building (Mitre 10 and rear sheds); 49 Shoalhaven Street – a Inter War bungalow and 57 Shoalhaven Street – a Post War commercial building (former Kiama Independent).*
- 3) *There is an existing bluestone retaining wall located on the northern boundary of the development site. There is one heritage item which abuts the northern boundary of the development site, which is 58-64 Terralong Street (former Devonshire House). It is identified as Heritage Item No I156 in Schedule 5 of the LEP. The retaining wall noted above is not located within the site of Heritage Item No I156.*

COMMENT:-

- 1) *None of the properties proposed for demolition noted in pt 2 above are listed in Schedule 5 of Kiama LEP 2012. The above properties have not been identified or recommended for potential listing in past heritage studies including Kiama Heritage Study 1987, Illawarra Regional Heritage Study Review 1994, Kiama Heritage Review 2000 and Review of Kiama Council Draft LEP Heritage Items 2007. The fibro and iron single-storey Inter War Period dwelling in Shoalhaven Street is not rare; is considered typical and common; is not representative of exterior characteristics which distinguish the California Bungalow style; and the integrity of its residential setting is substantially compromised by adjacent commercial development. The dwelling would not be considered worthy of potential listing when assessed against the above criteria and compared to existing items already listed in the LEP including but not limited to I83 located nearby (cnr Bong Bong Street and Shoalhaven Street), I41 – 91 Shoalhaven Street, and I37 – 5 Allowrie Street, Jamberoo.*
- 2) *Considering the potential impacts on heritage items noted in pt 1a above, the primary views towards these heritage items are short-range views from Terralong Street. Given the proposed development is located behind the heritage items as viewed from*

Terralong Street, the impacts on the setting of these places would be minimal.

- 3) *Having reviewed the amended DA which is relatively similar to previous submissions, my previous advice has not changed i.e. the proposed development can be considered satisfactory from a heritage point of view.*

CONCLUSIONS:-

The proposed development would have minimal impact on the setting of heritage items in Terralong Street including former Tory's Hotel and former Devonshire House given the visual appreciation and primary views towards these places is from Terralong Street.

Dwellings in Bong Bong Street which form part of a group listing may have their views towards Kiama Harbour obscured by the proposed development although this has not been tested, and nevertheless the principle reason for listing these properties was for their contribution to the streetscape.

Given buildings proposed to be demolished have not been identified as heritage items, there is no objection to their removal. As previously noted in COMMENT pt 1 above, the Inter War Period dwelling in Shoalhaven Street is considered common aesthetically and there are superior examples already listed in the LEP.

Based on the above analysis the proposed development can be considered satisfactory from a heritage point of view.

RECOMMENDATIONS:-

As a condition of consent should this development be approved, the bluestone retaining wall noted in HERITAGE SIGNIFICANCE pt 3 above should be included in a dilapidated report for the site. Should during the course of construction the bluestone retaining wall be physically impacted, repairs should be undertaken to the approval of Council.

A condition of consent has been included in the draft conditions of consent (**Annexure 5**) requiring that the bluestone wall is included in the dilapidation report.

- Waste Management Officer

As detailed in the previous Assessment Report (**Annexure 1**), Council's Waste Management Officer (WMO) raises no concerns about the adequacy of the proposed service lane egress to Collins Street to accommodate waste collection services provided the egress lane to Collins Street is widened.

The WMO has reviewed the further revised proposal and provides recommended conditions which have been included in the recommended conditions of consent included in **Annexure 5**

6.0 CONCLUSION

This development application has experienced a protracted assessment process involving several different design iterations.

It is understood that Council has long sought opportunities for a second supermarket within the Kiama CBD to provide retail competition with the existing Woolworths supermarket located along Terralong Street further west from the subject site. The proposal provides an opportunity to improve retail competition within the CBD.

As detailed in the previous Assessment Report (**Annexure 1**) past retail studies undertaken for Council have identified that by 2020 there would be a need for a supermarket and additional retail floor space; and have identified the subject site as being suitable for a supermarket and speciality shops.

The provision of shop-top housing in this location also has the potential to contribute to providing housing within close proximity of the Kiama town centre and its services, and reduce the potential for urban sprawl within the Municipality. Shop-top housing also has the potential to improve the vibrancy of the CBD particularly outside peak work and holiday periods.

On the 30th April 2018 the JRPP considered an Assessment Report in connection with a previous proposal for the site and resolved to defer determination of the development application, requiring the development to be further amended and further information to be supplied.

Following the JRPP's deferral of consideration of the Development Application, the Applicant has further revised the proposal and submitted amended plans and documentation for consideration.

This supplementary assessment report discusses the further revised proposal and provides an assessment of the revised proposal in accordance with point 3 of the Panel's deferral decision as detailed above.

This supplementary assessment report should be read in conjunction with the previous Assessment Report dated 13th April 2018 that our firm prepared in relation to the previous revised proposal (**Annexure 1**).

With respect to the matters raised by the JRPP in its Record of Deferral, the following comments are made:

- The further revised proposal has been amended by:
 - Deleting level 4 from building D & E
 - The roof top of building D & E has been converted to communal open space. In addition, small communal open space courtyards are now also proposed on buildings

A, B and C. The development now exceeds the communal open space requirements for the development.

- The architectural character of buildings B & D has been differentiated through articulation, and material and colour selection.
- Pedestrian access from Terralong to Akuna Street has been improved by the incorporation of pedestrian pathway along the western boundary of the site which will direct pedestrians from Akuna Street to a stairwell and / or lift that will take them directly to the ground floor retail arcade and thence to the Terralong Street frontage of the site.
- A separate lift lobby has now been provided to provide separated pedestrian access from the Shoalhaven Street commercial frontage to the commercial parking levels. A separate lift lobby is provided from the residential apartments within Building A between the residential apartment levels and the residential car park levels.
- The Applicant has also confirmed details of the hours of operation of the car park areas and measures that will be implemented to manage the car parking areas from a security perspective.
- Additional canopy tree plantings are now proposed in all communal open space areas, including the new roof top communal open space area on Building D & E and these details are included on the revised landscape plans that have been submitted in support of the further revised proposal.

Notwithstanding, the deletion of the level 4 apartments from Building D & E under the further revised proposal, this building still does not comply with the 11-metre building height limit that applies to the site.

- The provision of a lift and stairwell to enable access to the communal open space on level 4 requires the provision of a lobby providing access to a lift and stairwell. The roof of this lobby area will have a maximum height above existing ground level of 14.18 metres, and exceedance of the 11 metre building height limit by 3.18 metre. The extent of exceedance however is limited to the roof plate of this structure.
- The residential floor levels for Building D & E have also been raised by 1.2 metres. In addition to raising the lobby roof for the communal open space, this has also resulted in the northern parts of the level 3 roof extending above the 11-metre ground level for Building D & E. The raising of these floor levels has sought to reduce the height difference between Level 1 apartments and Akuna Street frontage to improve resident amenity for these units and enable greater activation of this street frontage.

The further revised proposal has been reviewed by Council's architectural and urban design consultant, BHI Architects. BHI conclude that the further revised proposal presents an improved

urban design response in line with the JRPP recommendations as well as following specific advice provided by BHI. The Architectural and Urban Design Review prepared by BHI includes recommendations to further improve the architectural and urban design response of the further revised development. These recommendations have been incorporated as draft conditions of consent should the JRPP be of a mind to approve this application.

This supplementary assessment report is also supported by engineering advice provided by Council which includes a consolidated traffic assessment of the further revised proposal. This consolidated traffic assessment concludes:

- The local road network will be able to accommodate traffic generated by the development.
- On-site parking has been designed in compliance with relevant Australian Standards.
- The proposed egress for service vehicles from the development into Collins Street is supportable subject to the provision of an easement for access along Lot 4 DP 555589, 106 Terralong Street to enable the widening of this driveway.

This supplementary assessment report also provides a responses to concerns that have been raised by the public to this proposal.

Overall it is considered the further revised proposal is an urban design improvement on the previous revised proposal that was the subject of the previous Assessment Report.

- The deletion of level 4 from Building D & E and the use of the roof top of this building for communal open space will ensure that the development will now provide an adequate supply of communal open space for the development.
- The deletion of level 4 from Building D & E will also ensure the scale of this building is reduced and will provide a scale of development, when viewed from Akuna Street, more in keeping with the character of development in this area.
- Whilst parts of this building will still exceed the height limit that applies to the site, such exceedances occur along the northern part of the building and as such will not result in a significant impact on the character of the locality.
- The appearance of Building D & E has also been improved substantially by providing improved articulation and selection of external materials and colours. This will ensure Building D & E will read differently to the other components of the proposal.
- Pedestrian access has also been improved with a pathway along the western boundary that will provide a more direct link between Akuna Street and the retail arcade, and then Terralong Street. The separation of lift access to the Shoalhaven Street frontage will also ensure improved security for residents of Building A.

- The revised proposal also now provides further information in terms of hours of operation and security of the car parks.
- Improved landscaping is also proposed with increased canopy tree plantings within the communal open space areas.

This supplementary assessment report has been prepared to address the matters raised in point 3 of the JRPP Record of Deferral. This report is to be read in conjunction with the Assessment Report that forms **Annexure 1** to this report. The original Assessment Report (**Annexure 1**) considers the heads of consideration pursuant to Section 4.15 of the Environmental Planning & Assessment Act. The further revised proposal is considered satisfactory having regard to all relevant matters for consideration as prescribed by Section 4.15 of the Environmental Planning & Assessment Act. Under these circumstances the further revised proposal is considered reasonable and approval is recommended.

7.0 RECOMMENDATION

That the Joint Regional Planning Panel grant deferred commencement approval to Development Application DA 2016.304.1 pursuant to Section 4.16(3) of the Environmental Planning and Assessment Act subject to the recommended conditions detailed in **Annexure 5** of this report.

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ANNEXURE 1

**Assessment Report
Development Application (Revised)
(2016STH035 – DA10.2016.304.1)**

**Proposed Mixed Use Development
Retail & Commercial Premises
and Shop-Top Housing**

**Various Allotments
Terralong, Akuna and Shoalhaven Streets
Kiama**

ANNEXURE 2

**Plans of Further Revised Proposal
prepared by ADM Architects**

**Landscape Plans for Further Revised Proposal
Prepared by Ochre Landscape Architect**

**BASIX & Nathers Certification
Prepared by Greenview Consultants**

**Various Allotments
Terralong, Akuna and Shoalhaven Streets**

ANNEXURE 3

Architectural and Urban Design Review

**prepared by
BHI Architects**

**Various Allotments
Terralong, Akuna and Shoalhaven Streets
Kiama**

ANNEXURE 4

**Engineering Assessment
(including Consolidated Traffic Assessment)**

**prepared by
Kiama Municipal Council**

**Various Allotments
Terralong, Akuna and Shoalhaven Streets
Kiama**

ANNEXURE 5

Recommended Conditions of Consent

Various Allotments
Terralong, Akuna and Shoalhaven Streets
Kiama